949.

SUPREME COURT OF THE UNITED STATES.

No. 135.

WILLIAM FONTAIN, APPELLANT,

vs.

WILLIAM RAVENEL.

APPEAL FROM THE CIRCUIT COURT UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

INDEX.

	Original.	Print.
Docket entries	a	1
Bill of complaint	1	2
Answer	6	5
Exhibit A, annexed to answer	15	11
" B, " " "	22	16
" C, " " "	26	20
" D, " " "	40	34
Replication	43	36
Agreement as to evidence	43	36
Will of Mrs. Eliza Kohne	46	38
Bill in equity, (Moore vs. Petigru,) and answers	55	45
Inventory of the personal estate of the late Frederick Kohne	75	57
Additional inventory	79	59
Decree of the court	80	60
Appeal to Supreme Court, United States	81	61
Certificate of clerk	81	61

GIDEON, Print.

Docket entries.

Hopper. WILLIAM FONTAIN, a subject of the King of Prussia,
7
B. Gerhard. vs. } In equity.
WILLIAM RAVENEL, a citizen of the State of South Carolina.

1853, August 10. Bill filed and subpœna exit, returnable on the first Monday of September next.

" Sept. 10. Answer of William Ravenel filed.

" " " Subpœna returned "service accepted."

" October 19. Agreement as to evidence filed.

" " " Will of Mrs. Eliza Kohne filed.

" " " Bill in equity in Charleston district, S. C., Moore *vs.* Petigru et al., filed.

" " " Inventory and appraisement of the personal estate of the late Frederick Kohne, deceased, filed.

" " " Additional inventory filed.

" " " Replication filed.

" " 28 And now, to wit, this twenty-eighth day of October, A. D. 1853, this cause came on to be heard at this session, on bill, answer, and evidence, and was argued by counsel learned in the law, on both sides; and thereupon, upon consideration thereof, it was ordered, adjudged, and decreed, as follows, to wit: That the complainant's bill do stand dismissed out of this court, with costs, to be paid by the parties on whose behalf the same is filed.

" Nov. 30. And now, 30th November, 1853, on motion of Edward Hopper, esquire, leave is granted to enter an appeal to the Supreme Court of the United States, from the decree of this court, dismissing the bill of complaint of said complainant.

Pleas before the honorable the judges of the circuit court of the United States for the eastern district of Pennsylvania, in the third circuit: Of April session, 1853. No. 7. It is thus contained:

Docket entries.

April session, 1853.

Hopper.	WILLIAM FONTAIN, a subject of the King of Prussia,	In Equity.
7	vs.	
Gerhard.	WILLIAM RAVENEL, a citizen of the State of South Carolina.	

1853, August 10. Bill filed and subpœna exit, returnable on the first Monday of September next.

" Sept. 10. Answer of William Ravenel filed.

" " " Subpœna returned "service accepted."

Bill.

To the honorable the judges of the circuit court of the United States in and for the eastern district of Pennsylvania, sitting in chancery.

William Fontain, a subject of the King of Prussia, whose name and official character are used as they claim the right to do by the institutions hereinafter mentioned, in behalf of themselves and such others as may be entitled, brings this his bill against William Ravenel, a citizen of the State of South Carolina.

And thereupon your orator complains and says, that Frederick Kohne, late of the city of Philadelphia, in the said State of Pennsylvania, at the time of making his last will and testament hereinafter mentioned and at the time of his death was seised or entitled in fee simple of or to divers messuages, lands, tenements, and hereditaments of considerable yearly value, in the city and county of Philadelphia, and in the city of Charleston, and being so seised or entitled, and also possessed of considerable personal estate, the said Frederick Kohne, on or about the twenty-eighth day of April, anno Domini 1829, made his last will and testament in writing, which was duly signed and published by him, and attested in such manner as is by law required. And thereby after giving divers pecuniary and specific legacies and divers annuities, did amongst other things authorize and empower his executors from and immediately after the decease of his wife to dispose of all the rest, residue, and remainder of all his estate, (including the surplus income after the payment of the legacies therein before directed to be paid after the decease of his said wife, and after providing for the payment of the annuities thereinbefore given of such annuitants as should then still be living,) for the use of such charitable institutions in Pennsylvania and South Carolina as they or the survivor of them might deem

most beneficial to mankind, and so that part of the colored population in each of the said States of Pennsylvania and South Carolina should partake of the benefit thereof. And the said testator did by his said will further authorize and empower his said executors or the survivor of them after the decease of his said wife, for the better and more easy disposition of his said residuary estate as aforesaid, to sell and to make and execute good and sufficient deeds and conveyances of his real estate not thereinbefore specifically disposed of to the purchaser or purchasers thereof, his, her, or their heirs and assigns in fee simple, as by the said will and the probate thereof, to which your orator craves leave to refer when produced, will appear. And the said Frederick Kohne, the testator, nominated and appointed his said wife Eliza Kohne, and John Boblen and Roberts Vaux, of the city of Philadelphia, and Robert Maxwell, formerly of Charleston, aforesaid executors of his said last will and testament.

And your orator further showeth that the said testator departed this life without having altered or revoked his said will, and that letters testamentary on said will were duly granted to the said executors by the register for the probate of wills and granting letters of administration in and for the city and county of Philadelphia, in the State of Pennsylvania aforesaid.

Your orator further showeth, that the said Roberts Vaux, John Bohlen, Robert Maxwell and Eliza Kohne, have all departed this life, the said Eliza Kohne having survived all her co-executors.

Your orator further showeth, that on the fifteenth day of October, anno Domini 1852, the register for the probate of wills and granting letters of administration in and for the said city and county of Philadelphia, granted unto your orator letters of administration de bonis non cum testamento annexo on the estate of the said Frederick Kohne, deceased.

Your orator further showeth, that the said Eliza Kohne made her last will and testament, whereby she appointed James L. Petigru and the said William Ravenel, the defendant, executors of her said will, and letters testamentary on the said will have been granted to the said William Ravenel, by the register for the probate of wills and granting letters of administration for the said city and county of Philadelphia, and he the said defendant hath taken upon himself the due execution thereof.

Your orator further showeth, that the personal estate and effects which were of the said Frederick Kohne, deceased, and have come into the hands, custody and power of the said defendant, and which constitute part of the residuary estate of the said Frederick Kohne, are of very great value, and more than sufficient to satisfy all the said legacies and annuities, so as to afford together with the proceeds of the said real estate a large residue, which of right belongs to the plaintiff in his representative capacity as administrator aforesaid, to be applied and disposed of among charitable institutions, according to the design and pur-

pose of the testator mentioned and declared in his said will as aforesaid.

Your orator further showeth, that such charitable institutions do exist in the State of Pennsylvania, and he would crave leave to suggest to this honorable court as the proper objects of the said county the following institutions duly incorporated according to the laws of the State of Pennsylvania, viz., "The Union Benevolent Society of Philadelphia," "The Pennsylvania Society for promoting the abolition of Slavery, for the relief of free negroes unlawfully held in bondage, and for improving the condition of the African race," "The Association for the care of Colored Orphans," "The Preston Retreat," "The Foster Home Association of Philadelphia," "The Grandom Institute of Philadelphia," "The Northern Association for the Relief and Employment of Poor Women," "The Rosine Association of Philadelphia," and "The Temporary Home Association," with such other institutions as shall be ascertained to be proper objects of the said charity in the exercise of a sound discretion under the direction of this honorable court.

And your orator being thus invested with the rights and powers conferred upon him by the will of the said Frederick Kohne, deceased, and desiring faithfully to execute the trust thereby imposed, well hoped that the said defendant would have transferred to him the said personal estate and effects constituting the said residuary estate, so that the same should be disposed of agreeably to the intents and purposes of the said testator in his said will declared and set forth.

But so it is may it please your honors, the defendant wholly refuses to make such transfer, and alleges and pretends that the said executors, Eliza Kohne, Roberts Vaux, John Bohlen, and Robert Maxwell, having all departed this life, that the said charitable disposition cannot be carried into execution, the same having failed and become invalid by reason of the death of all the said executors, and that distribution of the said residuary estate should be made as in case of the intestacy of the said Frederick Kohne, deceased.

Whereas your orator charges the contrary thereof to be the truth, and that the said bequest of the said residuary estate is a valid disposition thereof, and right according to equity and good conscience to be faithfully carried into execution according to the intentions and purposes expressed in the said will of the said testator.

And your orator prays that your honors may decree and direct the said defendant to exhibit a full and entire account of the estate and effects of the said testator which came into the hands of the said Eliza Kohne, and constituted the residue of said estate, and also a full and entire account of the estate and effects of the said testator which have come into the hands of the said defendant, or into the hands of any person or persons by his order or for his use; and that the said defendant may be decreed to pay and transfer the said estate and effects to your orator, to be disposed of and applied by him according to the de-

sign and intention of the said testator, as declared and set forth by his will as aforesaid, that is to say, for the use of such charitable institutions as shall be deemed by this honorable court to be entitled to the same; and that your orator may have such further and other relief in the premises as shall seem agreeable to equity and good conscience.

May it please your honors to grant unto your orator the writ of subpœna of the United States of America, to be directed to the said William Ravenel, the defendant, commanding him at a certain day, under pain to be therein limited, personally to be and appear before your honorable court, and then and there full, true, and perfect answers make to all and singular the premises; and further to stand, to perform, and abide such further order, direction, and decree therein as the nature of the case shall require, and to your honors shall seem meet.

EDWARD HOPPER,
Solicitor for complainant.

Afterwards, to wit, on the tenth day of September, A. D. 1853, comes the respondent, William Ravenel, by his solicitor, Benjamin Gerhard, esquire, and presents his answer; which answer is filed, and is in the words following, to wit:

Answer.

In the circuit court of the United States, in and for the eastern district of Pennsylvania, of April sessions, 1853, No. 7.

The answer of William Ravenel, a citizen of the State of South Carolina, defendant to the bill of complaint of William Fontain, a subject of the King of Prussia, (whose name and official character are used, as they claim the right to do by the institutions in said bill of complaint mentioned, in behalf of themselves and such others as may be entitled,) plaintiff.

This defendant, reserving to himself all right of exception to the said bill of complaint, for answer thereto, saith:

That he hath been informed, and believes it to be true, that the late Frederick Kohne, the party referred to in the said bill of complaint, was at the time of making his last will and testament and of his death, seised or entitled in fee simple of or to divers messuages, lands, tenements, and hereditaments of considerable yearly value, situate in the city and county of Philadelphia, and in the city of Charleston; and that being so seised or entitled, and being also possessed of considerable personal estate, he the said Frederick Kohne, on or about the twenty-eighth day of April, in the year of our Lord one thousand eight hundred and twenty-nine, made his last will and testament, in writing, which was duly signed and published by him, and attested in such manner as is by law required.

But this defendant does not admit that the said Frederick Kohne was, at the time of his death or of making his said last will and testament, a citizen of the State of Pennsylvania; on the contrary thereof,

this defendant avers, that the said Frederick Kohne, both at the time of making his said last will and testament and of his death, was a citizen of the State of South Carolina, having his domicil in the city of Charleston, in the said last mentioned State. And this defendant avers that the said Frederick Kohne had lived continuously for years and upwards, to wit, from about the year one thousand to the year one thousand eight hundred and twenty-six, in the said last mentioned city and State, where he was extensively engaged in business, and where he, on or about the seventh day of April, in the year of our Lord one thousand eight hundred and seven, entered into the solemn bonds of matrimony with Miss Eliza Neufville, a native of the said last mentioned city, and a resident therein from her birth, and that from the said last mentioned day, he, the said Frederick Kohne, was a housekeeper in the said last mentioned city, and so continued until the day of his death, with his house fully furnished and maintained with domestic servants, and fit at any moment for occupation and the entertainment of guests.

And this defendant further answering, says, that it is true as this defendant has been informed, and verily believes, that on or about the year one thousand the said Frederick Kohne began to spend some months of every year, but less than six months thereof, within the said city and county of Philadelphia; that he had a furnished dwelling-house in the said city of Philadelphia, maintained in like manner as his said dwelling-house in the said city of Charleston, and also a small country house within the said county of Philadelphia, which was opened and furnished for a few weeks in every year. But this defendant avers that he has been informed, and verily believes, that the said Frederick Kohne continued always to occupy his said dwelling-house in the said city of Charleston, for more than six months in every year until the year one thousand eight hundred and twenty-six or thereabout, on or about which year, as this defendant has been informed, and verily believes, and from then until his death, which occurred in the said city of Philadelphia on or about the twenty-sixth day of May, in the year of our Lord one thousand eight hundred and twenty-nine, he, the said Frederick Kohne, was detained in the said last-mentioned city or at some watering-place in a neighboring State by sickness and bodily infirmities. And this defendant avers that the said Frederick Kohne never changed nor lost his said domicil in the said city of Charleston, or his citizenship of the said State of South Carolina.

And this defendant further answering says, that he believes it to be true that the said Frederick Kohne did, by his last will and testament, among other things, will and direct as in the said bill of complaint it is set forth, but for greater certainty the defendant refers to the original of the said will remaining on file in the office of the register of wills for the county of Philadelphia, and to a certified copy thereof, which he craves leave to produce at the hearing of this cause. And this defendant annexes hereto as part of his answer a paper which he believes to

be a true and literal copy of the said last will and testament marked exhibit A, and he prays that no admission made by him as to his belief of the reading or contents of any part of the said last will and testament shall cause the same to be taken except subject to its proper, legal, and equitable construction, and subject to any effect which the other of the said last will and testament shall have upon such legal and equitable construction.

And this defendant further answering says, that he believes it to be true, and he therefore admits that the said testator departed this life without having altered or revoked his said last will and testament, and that letters testamentary on the said will were duly granted to the said executors and executrix named in the said will (and mentioned in the said bill of complaint) by the said register of wills for the said county of Philadelphia.

And this defendant further answering says, that it is true, and this defendant therefore admits that Roberts Vaux, John Bohlen, and Robert Maxwell, the executors named in and appointed by the said last will and testament, all departed this life and left the said Mrs. Eliza Kohne the executrix named in and appointed by the said last will and testament surviving them, the said executors, and that the said Mrs. Eliza Kohne has also since departed this life.

And this defendant further answering says, that it is true, and he therefore admits that on the fifteenth day of October, in the year of our Lord one thousand eight hundred and fifty-two, the said register of wills for the said county of Philadelphia granted unto the said plaintiff letters of administration de bonis cum testamento annexo of the goods and chattels, &c., which were of the said Frederick Kohne, deceased.

And this defendant further answering says, that it is true, and he therefore admits that the said Mrs. Eliza Kohne made her last will and testament, and thereby appointed James L. Petigru, esquire, and this defendant, executors of the same, and that letters testamentary on a copy of the said last will and testament, duly authenticated according to the laws of the State of South Carolina, have been granted to this defendant by the said register of wills for the said county of Philadelphia, and that this defendant has taken upon himself the due execution thereof, so far as it relates to the estate of the said testatrix, within the said State of Pennsylvania, and entered into security in the sum of twelve thousand dollars for the faithful administration of the same.

But this defendant further answering says, that before the granting of the said last mentioned letters of administration to this defendant, the said James L. Petigru, esq., and this defendant, proved the said last will and testament of the said Mrs. Eliza Kohne before the ordinary of Charleston district, in the said State of South Carolina, and duly sued out letters testamentary on the said last mentioned will and testament under the authority of the said State of South Carolina, the domicil of origin of the said Mrs. Eliza Kohne, and the place of her actual legal domicil at the time of her death.

And this defendant further answering says, that the personal estate and effects which were of the said Frederick Kohne, and which constituted a part of his residuary estate, was of considerable value, and was, at and for some time before the death of the said Mrs. Eliza Kohne, more than sufficient to satisfy all the legacies and annuities specified in said last will and testament, so as to afford together with the proceeds of his real estate not specifically devised, a large residue, which would have been applicable to the distribution contemplated by the said will and testament of the said Frederick Kohne, to be made after the death of his said wife, Mrs. Eliza Kohne, by his executor or executors who should survive her in the case of such survivorship. And this defendant submits that the only part of the said last will and testament relating to the said proposed distribution is in the words following, to wit:

"I authorize and empower my executors or the survivor of them, after the decease of my said wife, to dispose of the same for the use of such charitable institutions in Pennsylvania and South Carolina, as they or he may deem most beneficial to mankind, and so that a part of the coloured population in each of the said States of Pennsylvania and South Carolina shall partake of the benefit thereof; and I do hereby further authorize and empower them or the survivors or survivor of them after my said wife's decease, for the better and more easy disposing of my said residuary estate as aforesaid, to sell and to make and execute good and sufficient deeds and conveyances of my real estate not herein before specifically disposed of, to the purchaser or purchasers thereof, his, her, or their heirs and assigns in fee simple."

And this defendant avers, that no attempt was at any time made by the said executors of the said last will and testament of the said Frederick Kohne, or by any of them, to execute the said power of distribution so as aforesaid designed to be contingently conferred on him or them by the said last will and testament of the said Frederick Kohne.

And this defendant further answering says, that it is not true, and he therefore denies that any part of the residuary estate of the said Frederick Kohne is in the hands of this defendant, the right, title, and interest in and to which has not passed from the legal representatives of the said Frederick Kohne, or that any of the said residuary estate is or would have been applicable to the said distribution among the charitable institutions of the said States of Pennsylvania and South Carolina.

And this defendant further answering says, that the facts within his knowledge in relation to the said residuary estate of the said Frederick Kohne are as follows: That after the death of the said John Bohlen, (who had survived Roberts Vaux and Robert Maxwell, the other executors of the said last will and testament of the said Frederick Kohne,) on or about the 11th day of March, in the year of our Lord one thousand eight hundred and fifty, the said Mrs. Eliza Kohne, executrix as aforesaid, was advised by counsel learned in the law of both in Pennsylvania and South Carolina, that the decease of all the said executors of the said last will and testament of the said Frederick Kohne in her life-

time, without any attempt by them or any of them to exercise the authority given to them over the said surplus, or the said residuary estate, had rendered that part of the said last will and testament of the said Frederick Kohne inoperative; and that the said surplus of his said residuary estate would be disposed of in the same way as if in the said will last mentioned no mention had been made thereof at all. That under this advice the said Mrs. Eliza Kohne asked the consent of the next of kin to anticipate the payment of the said legacies and annuities so as aforesaid specified in his said last will and testament, which were payable at her decease, with a view to distribute the said surplus of the said estate. That the next of kin of the said Frederick Kohne at the time of his decease, were his nephew Moritz William Fontain, of Rheda, in Prussia, (the father of the said plaintiff,) and his niece, Helena Maria Augusta Fontain, who married one Conrad Tremper, of Limburg, in Prussia, and who has since died, leaving her said husband surviving and no children. And this defendant submits that by the laws of both the State of Pennsylvania and of the State of South Carolina, the personal estates of intestates leaving no children them surviving *is* divided in moieties between the widow and next of kin.

And this defendant further answering says, that other matters were in dispute between the said Mrs. Eliza Kohne and the said next of kin of the said Frederick Kohne or their agent. That at the time of the decease of the said John Bohlen, surviving executor as aforesaid, there was pending in the supreme court of Pennsylvania, within and for the eastern district of that State, a cause between the said Mrs. Eliza Kohne and the said John Bohlen, surviving executor as aforesaid, in which the right of the said Mrs. Eliza Kohne to the provision made for her by her marriage settlement was called in question, which said suit abated by the death of the defendant.

That John C. Lang, of the said city of Philadelphia, who was the confidential clerk of the said John Bohlen, surviving executor as afore said, and who was the agent of the estate of the said Frederick Kohne, having the possession and control more or less of all the securities belonging to the said estate after the decease of the said John Bohlen, embraced the interest of the next of kin, and opposed the claims of the said Mrs. Eliza Kohne under the said marriage settlement, and strongly objected to her said plan of winding up the estate. That from the great age of the said Mrs. Eliza Kohne, delay was likely to be fatal to the hope of accomplishing in her lifetime the good which she desired to effect, and therefore she was disposed to avoid litigation, and consented to abate from her legal rights for the sake of conciliation. That after much discussion, an agreement was made and entered into between herself and the said next of kin, the said plaintiff acting as their attorney in fact, by which the amount of her claim under the marriage settlement was fixed provisionally, and an arrangement made for the payment of legacies and distribution of the said surplu sof the said residuary estate, in which agreement, at the instance of the said John C. Lang, a clause was inserted for transferring the several shares of the parties

in the surplus of the estate to him and this defendant, until the validity of the acts in question should be established, as, in and by the said agreement, a copy of which is hereto annexed as a part hereof, marked exhibit B, reference being thereunto had, will more fully and at large appear.

And this defendant further answering says, that after the said agreement, the said Mrs. Eliza Kohne paid off all the testator's legacies and purchased up the annuities and assigned one-fourth of the said surplus of the said residuary estate to the said Moritz William Fontain, and one-fourth to Conrad Tremper, and retained all the Carolina securities and some others, amounting to one moiety of the said surplus for her own use. That she also proved the will of the said testator in South Carolina, and filed a final administration account in the orphan's court for the said county of Philadelphia, which was submitted to auditors and confirmed about the seventh of March, one thousand eight hundred and fifty-one, a true and literal copy whereof is hereto annexed and marked exhibited C. And she also had an account stated as a final and distribution account, which she signed in the month of July following, which was subsequently exhibited to the said orphan's court, and in which the details of the distribution above mentioned are entered, and the estate represented as closed, which said account is in exact conformity with the results, except in representing her share of the surplus as transferred to trustees, whereas in truth it was retained as hereinbefore mentioned in the same shape, of which last mentioned account a copy is hereunto annexed marked exhibit D.

And this defendant further answering says, that the said Mrs. Eliza Kohne did transfer the shares of the said Conrad Tremper and Moritz William Fontain to the said John C. Lang and this defendant, and that she retained in her own hands, without change, that part of the said surplus of the said residuary estate which was allotted to her for her share. That the greater part consisted of South Carolina funds and of securities actually in South Carolina. And this defendant avers, that the said Mrs. Eliza Kohne was advised that it was unnecessary to make any change in respect to those funds and securities, and that the said parties, Moritz William Fontain and Conrad Tremper, with whom said agreement was made, had no interest in that stipulation nor any cause to complain of the situation of the fund. But this defendant avers, that in fact an account of the same, after the said division, was kept in the name of John C. Lang and this defendant, in trust for Eliza Kohne, until the said John C. Lang's death, and since that time has been kept in the name of William Ravenel, survivor.

And this defendant submits to your honors whether the prerogative, which is claimed for the sovereignty of a State or its courts, to dispose of property ineffectually devoted to charity, has existence in the United States of America; and if such prerogative exists, whether it is recognised either in the State of South Carolina or in the State of Pennsylvania, or in both of them; and if such prerogative exists, whether it has any application in the present instance, or extra territorial authority,

and whether the admission of such prerogative would imply any right in the State of Pennsylvania, in and over that part of the surplus undisposed of by the will of the testator, which at the time of the decease of his said wife was actually within the said last mentioned State and within the said State of South Carolina, or either and which of them.

And this defendant further answering says, that he is a citizen of the State of South Carolina, and as such a stranger to the charitable institutions of the State of Pennsylvania, and he cannot state, from his own knowledge, or otherwise, whether or not the institutions named in the said bill of complaint are charitable societies, and whether or not they are corporate bodies.

And this defendant prays that, if material, the said plaintiff may be compelled to prove his allegations in regard to them.

And this defendant is ready to account and submit, to do and perform all such acts and deeds as he may be required to do under the sanction and protection of this honorable court, and prays to be protected by this honorable court in the execution of any valid trusts of the respective wills of the said Mrs. Eliza Kohne and Frederick Kohne, which may devolve upon him, or for which he may (if he may for any) be responsible.

And this defendant claims the same benefit of all and every the matters and things hereinbefore set forth in this answer, as if he had pleaded the same, or in any other or more proper way advanced or set up such matters and things. Without this, that there is any other matter, cause, or thing, in the said plaintiff's said bill of complaint contained, material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed and avoided, or denied, is true, to the knowledge or belief of this defendant. All which matters and things this defendant is ready and willing to aver, maintain and prove, as this honorable court shall direct, and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

(Signed) WILLIAM RAVENEL.
B. GERHARD,
Of counsel with defendant.

Exhibit A.

Be it remembered that I, Frederick Kohne, of the city of Philadelphia, esquire, being of sound mind, memory and understanding, do hereby make my last will and testament in manner following, that is to say: First, I will that all my just debts and funeral expenses shall be duly paid and satisfied.

Item.—I do hereby give and bequeathe unto my beloved wife Eliza, absolutely, all my furniture, horses, carriages, and all articles and things purchased and provided by me for family use, (except my plate,) of all which I direct that no inventory or appraisement shall be taken or made.

Item.—I give and devise to my said wife all my messuages, lots of ground, lands, tenements, and real estate, whatsoever and wheresoever the same may be situate, with the appurtenances, excepting my house and store in Charleston, South Carolina, on East Bay street, at present occupied by Louis Kapman, esquire, and also another store on said East Bay street, the corner of Chisolm's wharf. To hold to her my said wife for and during all the term of her natural life, she supporting the same in good order and repair, and paying all taxes to be charged and assessed on the same for and during the aforesaid term. And I likewise give to my said wife all my plate for and during all the term of her natural life. I likewise give to my said wife my pews in St. Michael's church, Charleston, and in St. James' church, in the city of Philadelphia, and after my said wife's decease I give the said pews to the said churches respectivety. Moreover, I give to her, my said wife, for and during all the term of her natural life, an annuity or yearly sum of ten thousand dollars (say $10,000) lawful money of the United States of America, payable quarter-yearly, commencing from the day of my decease. And I do hereby authorize and empower her my said wife, either by her last will and testament or by any writing in the nature thereof, or by any writing under her hand, attested by two or more credible subscribing witnesses, to dispose of the sum of ten thousand dollars ($10,000) to be paid out of my estate, which I hereby direct shall be paid accordingly by my executors immediately after the decease of my said wife to such person or persons, and in such parts and proportions, as she may have so disposed of the same, or directed the disposal thereof in manner as aforesaid. And I likewise authorize and empower my said wife by deed or will to dispose of my houses, buildings and lots of ground on Broad street and Short street, situate in Charleston aforesaid, to such religious institution or institutions in fee simple, and for such purposes as she may see fit.

Item.—I give and devise unto the city council of Charleston, South Carolina, all that my aforesaid house and store in Charleston on East Bay street, at present occupied by Lewis Kapman, esquire, and also another store on the said East Bay street, the corner of Chisolm's wharf. To hold to them the city council of Charleston, their successors and assigns, for the sole and only use, benefit, and behoof of the orphan house in Charleston aforesaid.

Item.—I give and bequeath unto my nephew Moritz William Fontain, residing at Rheda, in Westphalia in Germany, the interest of all my Ohio six per cent. canal loan, accruing for and during all the term of his life, to be paid to him when and as the same shall be received by my executors. Excepting thereout the annual sum of three thousand dollars thereof, yearly and every year until the youngest child living of my said nephew shall arrive at the age of twenty-one years, which annual sums shall with all accumulation of interest arising from that source be yearly invested in the purchase of the like stocks, or in some of the public stocks or funds of the United States or of the State of Pennsylvania, or any other State or States, or of the United States,

or of the city of Philadelphia, bearing an interest as they, my said executors, in their discretion may see fit; which annual sums and all accumulation thereof I direct shall, on the youngest child living of my said nephew arriving at full age, be equally divided to and *and* amongst the children of my said nephew then living, and the issue of such of them as may then be dead, in equal parts, such issue to be entitled equally among themselves to such part and share only as their deceased parent could have taken if living; and immediately on the decease of my said nephew, and upon his youngest child arriving at full age, I direct my said executors to assign all the said Ohio six per cent. canal loan to all the children of my said nephew who may then be living, and the issue of them that may then be dead, to be equally divided between them part and share alike, such issue taking and among themselves equally dividing such part and share only as their deceased parent would have taken if living, and at the same time pay and account with them for their respective parts of the interest thereof and all accumulation of the same. And I would recommend to my said nephew his coming to America and settling in the State of Ohio.

Item.—I give to my niece, Fontain, now married to a person of the name of Kramper, one annuity or yearly sum of fifty pounds, sterling money of Great Britain, commencing from the day of my decease, to be paid to her yearly, for and during all the time of her natural life.

Item.—I give to my friend, James Thomas, esq., residing in Charleston, one annuity or yearly sum of four hundred dollars, lawful money of the United States of America, commencing from the day of my decease, to be paid to him yearly for and during all the term of his natural life.

Item.—I give and bequeath to J. H. Lange, of the city of Philadelphia, one annuity or yearly sum of two hundred dollars, commencing from the day of my decease, to be paid to him yearly for and during all the term of his natural life.

Item.—I give to my former servant, William Hazard, residing at Charleston, the sum of twenty dollars per month, commencing from the day of my decease, and to be paid to him for and during all the term of his natural life.

Item.—I give to my old servant, Ann Wilson, residing at Charleston, three dollars, weekly, commencing from the day of my decease, and to be paid to her for and during all the term of her natural life.

Item.—I give to my servant, Lucy Ann Inglis, the sum of one hundred dollars, and to my servant, Susan Inglis, her sister, the sum of one hundred dollars, to be paid to them immediately after my decease, and if they continue their faithful services to my wife during her life, in that case, but not otherwise. I give to the said Lucy Ann Ingles, one annuity of three hundred dollars per annum, to Lucy Ann Ingles, commencing from the day of the decease of my said wife, to be paid to her yearly, for and during all the remainder of the term of her the said Lucy's natural life, and to her sister Susan Ingles, one annuity or yearly sum of two hundred dollars, commencing from the day of the

decease of my said wife, to be paid to her yearly for and during all the remainder of the term of the natural life of her the said Susan.

Item.—I give to my servant, Emma Lewis, living at Charleston, the sum of one hundred dollars.

To my servant, John Nelson, living in Charleston, the half brother of the said Emma Lewis, the sum of fifty dollars; and to my servant, Edward James, the half brother of the said Lucy Ann and Susan Ingles, now living with me, the sum of fifty dollars; which legacies I desire to be paid immediately after my decease.

Item.—I give and bequeath the following legacies, to be paid immediately after the decease of my said wife, viz: To the Theological Seminary of the Protestant Episcopal Church in the United States of America, established near Greenwich, in the State of New York, the sum of one hundred thousand dollars, say 100,000. To Thomas Hale, of the city of Philadelphia, the sum of ten thousand dollars in trust, to be paid by him to the treasurer for the time being of the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States of America, to be applied by the said society exclusively to their domestic concerns or purposes.

To the Right reverend Nathaniel Bowen, of Charleston, the sum of five thousand dollars in trust, to be paid over by him to the treasurer for the time being of the Society of the Protestant Episcopal Church for the Advancement of Christianity in South Carolina.

To Thomas Lowndes, of Charleston, the sum of five thousand dollars in trust, to be paid by him to the treasurer for the time being of the Ladies' Benevolent Society in Charleston, South Carolina, to be applied to the objects of that society.

To Elias Horry, of Charleston aforesaid, the sum of ten thousand dollars in trust, to be paid by him to the treasurer for the time being of the Shirras Dispensary in Charleston, for the use of that institution. To the said Elias Horry, the sum of five thousand dollars in trust, to be paid by him to the treasurer for the time being of the Bishop Fund in South Carolina, for the uses of that fund. To the said Thomas Hale, the sum of three thousand dollars in trust, to be paid by him to the treasurer for the time being of the Female Episcopal Benevolent Society of St. James's church, in the city of Philadelphia, for the use of the poor of that church. To the Philadelphia Dispensary, the sum of ten thousand dollars. To the Female Association of Philadelphia, the sum of five thousand dollars.

To the Orphan Society of Philadelphia, the sum of sixty thousand dollars, (say $60,000.) To the said Thomas Hale, the sum of five thousand dollars in trust, to be paid by him to the treasurer or treasurers for the time being of the Infant School established in Philadelphia, to be applied to the objects of those schools. To the said Thomas Lowndes, the sum of ten thousand dollars in trust, to be paid by him to the treasurer for the time being of the Charleston Protestant Episcopal Domestic Missionary Society, which now employs as their missionary the Rev. Edward Philips at the Free church in Charleston, South Carolina, called St. Stephen's chapel, to be applied towards supporting their

missionary, who shall officiate in that church. To the said Elias Horry, the sum of five thousand dollars in trust, to be paid by him to the treasurer for the time being of the Mariner's church in Charleston, South Carolina, for the use of the said church. To the House of Refuge in Pennsylvania, the sum of one hundred thousand dollars, (say $100,000.) To the Society of the Protestant Episcopal church for the Advancement of Christianity in Pennsylvania, the sum of five thousand dollars. To the Pennsylvania Institution for the Deaf and Dumb, the sum of twenty thousand dollars, (say $20,000.) To John Read, Thomas Hale, and James S. Smith, of the city of Philadelphia, the sum of five thousand dollars in trust, to be paid by them to the treasurer for the time being of the fund for the support of the Bishop of the Protestant church in Pennsylvania, who shall have the city of Philadelphia within his diocese; and to the said Thomas Hale, the sum of twenty thousand dollars in trust, to be paid by him to the treasurer for the time being of the General Episcopal Sunday-school Union, of which Floyd Smith, esq., of New York, is now treasurer; and forasmuch as there will be a surplus income of my estate beyond what will be necessary to pay my said wife's annuity and the other annuities, I do, therefore, direct my said executors to invest the said surplus income and all accumulation of interest arising from that source yearly, for and during all the term of the natural life of my said wife, in the purchase of such stocks or securities of the United States or the State of Pennsylvania, or of any other State or States of the United States, or of the city of Philadelphia, bearing an interest as they in their discretion may see fit, and from and immediately after the decease of my said wife, then all the rest, residue and remainder of all my estate, including the fund which shall have arisen from the said surplus income aforesaid, after payment of the legacies hereinbefore directed to be paid after the decease of my said wife, and after providing for the payment of the annuities hereinbefore given of those annuitants who may then still be living, I authorize and empower my executors or the survivor of them, after the decease of my said wife, to dispose of the same for the use of such charitable institutions in Pennsylvania and South Carolina as they or he may deem most beneficial to mankind, and so that part of the colored population in each of the said States of Pennsylvania and South Carolina shall partake of the benefit thereof; and I do hereby further authorize and empower them or the survivors or survivor of them, after my said wife's decease, for the better and more easy disposing of my said residuary estate as aforesaid, to sell and to make, and execute good and sufficient deeds and conveyances of my real estate not hereinbefore specifically disposed of, to the purchaser or purchasers thereof, his, her or their heirs and assigns in fee simple. And it is my mind and will that if any of the stocks or securities which I now hold or belonging to my estate shall be paid off, then and in such case I direct my said executors, or the survivors or survivor of them, forthwith to reinvest the moneys which may so come to their hands in the purchase of any funds or stocks or securities of the United States or the State of Pennsylvania, or any other State or States of the United States, or of the city of

Philadelphia, bearing an interest as they in their discretion may see fit. And I do hereby nominate and appoint my said wife, and my respected friends, John Bohlen and Roberts Vaux, of the city of Philadelphia, and my respected friend, Robert Maxwell, formerly of Charleston aforesaid, esquire, executors of this my last will and testament. Lastly, I do hereby revoke all wills and testaments by me at any time heretofore made and published, and declare this only to be and contain my last will and testament.

In witness whereof, I have hereunto set my hand and seal, the 28th day of April, in the year of our Lord one thousand eight hundred and twenty-nine.

(Signed) FREDERICK KOHNE, [L. S.]

Exhibit B.

Memorandum of an agreement between Eliza Kohne, of the city of Charleston and the city of Philadelphia, and Moritz William Fontain and Conrad Tremper, of the kingdom of Prussia, the last two parties acting by their attorney in fact, William Fontain. Whereas the said parties hereto are the parties entitled to the residuary estate of the late Frederick Kohne, which will remain after paying the claims against his estate; and the legacies bequeathed to the legatees specifically named in his last will and testament, and the said Eliza Kohne is the executrix of his said will. It is agreed by and between them to settle the estate of the said testator as follows: First, that the said Eliza Kohne, as executrix as aforesaid, shall forthwith pay all charges against the said estate, for settling the same or otherwise, and then that she shall pay to herself the sum of fifty thousand dollars, in satisfaction of her claim under her marriage settlement against the estate of the said testator, but ten thousand dollars thereof shall be forthwith deposited in the hands of John C. Lang, of the city of Philadelphia, and William Ravenel, of the city of Charleston, to be invested and retained by them until it shall be ascertained that under the agreement between the parties hereto, dated the second day of August, A. D., 1850, no diminution of the said sum of fifty thousand dollars is to be made in favor of the said Moritz William Fontain and Conrad Tremper: the interest on the said sum of ten thousand dollars shall in the meantime be regularly invested and accumulated, and the said sum of ten thousand dollars with the said accumulated interest shall be held in trust to pay the said Moritz William Fontain and Conrad Tremper, in case they should become entitled to, under the said last mentioned agreement, any diminution of the said sum of fifty thousand dollars in their favor, (under the said last mentioned agreement,) but if it shall be ascertained that the said Moritz William Fontain and Conrad Tremper are entitled to no such diminution, or if any, not to the extent of the said ten thousand dollars and the interest accumulated thereon, then in the first case the whole, and in the second case the residue of the said ten thousand dollars and its accumulated interest shall be paid and transferred to the said Eliza Kohne. Second, that the said Eliza Kohne, as executrix as aforesaid, shall forthwith pay the legatees specifically named in the

said will, and whose legacies are directed to be paid after the death of the said Eliza Kohne, including the sum of ten thousand dollars to herself, of which she has the right of disposition after her death. Third, that the said Eliza Kohne, as executrix as aforesaid, shall forthwith buy off, if possible, all the annuities bequeathed by the said will, including that to Susan Inglis, and excluding that to herself; and if they or any of them cannot be bought, then she shall make such other provision for their payment as she shall judge best. Fourth, that after making a reasonable reservation for future charges against the estate, she shall deduct and pay herself all commissions due her, the said Eliza Khone, as executrix as aforesaid, including those to accrue to her on settling the said estate under this agreement, and then the whole remaining personal estate she shall forthwith distribute in the following manner: she shall transfer and distribute the said residue of the said personal estate, two-fourth parts thereof to herself, one-fourth part thereof to William Fontain, attorney for Moritz William Fontain, and the remaining fourth part thereof to William Fontain, attorney for Conrad Tremper; the shares of the said Eliza Kohne, Moritz William Fontain and Conrad Tremper, are to be deposited in the hands of John C. Lang, of the city of Philadelphia, and William Ravenel, of the city of Charleston, to be invested by them and to remain with them as a security for the estate of the said Frederick Kohne, until the propriety of the said last mentioned payments shall have been finally passed upon by the proper courts; after which, if the said payments shall be affirmed as rightfully made, the respective amounts of the said payments shall be absolutely transferred to the said Eliza Kohne, Moritz William Fontain and Conrad Tremper, respectively; but if such final determination of the said courts shall be against the propriety of the said payments, then the respective amounts of the said payments shall be held in trust for the party or parties entitled to the said residuary personal estate of the said Frederick Kohne, which will remain after paying the legacies to the legatees specifically named in the said will; the interest on the respective amounts of the said payments to the said Eliza Kohne, Moritz William Fontain and Conrad Tremper, shall be paid to them respectively by the said John C. Lang and William Ravenel, until such final determination as aforesaid, but the said Moritz William Fontain and Conrad Tremper shall each give refunding receipts for all such interest payments as shall be made to them respectively, stipulating for the return of the same in case the respective capitals producing the said interest shall be finally adjudged, as aforesaid, not to belong to them respectively.

Fifth. The real estate of the said Frederick Kohne, so far as the same is not specifically devised by his will, the said parties hereto are advised by their counsel, will after the death of the said Eliza Kohne be inherited by the said Moritz William Fontain, but at his request, the said Eliza Kohne, for herself and her heirs, disclaims all interest in the same other than her life estate therein under the said will, and protesting that she has no other interest therein, covenants to convey to the

said Moritz William Fontain all and every other interest which she may have in the said real estate. Sixth. The said Eliza Kohne will, as against the said Moritz William Fontain and Conrad Tremper, not claim her annuity of ten thousand dollars under the said will from the time of the receipt by her of her share of the said distribution of the said residuary personal estate, nor as against the said Moritz William Fontain and Conrad Tremper will she claim more than twelve thousand dollars commissions for settling the said estate of the said Frederick Kohne under this agreement. Seventh. The said William Ravenel has been named as a trustee by the said Eliza Kohne and the said John C. Lang, by the said Moritz William Fontain and Conrad Tremper, and in the event of the death, resignation or dismissal of either of the said trustees, the party or parties on whose behalf he was named shall name a successor, and the continuing trustee shall make or unite in making any proper transfer or conveyance to join such nominated party as a trustee in the aforesaid trusts. Eighth. This agreement is only to be operative as between the parties hereto, and is not to be given in evidence or pleaded by any other party or parties, nor as for, against or between any other party or parties. Ninth. That all rights and liabilities herein given to or imposed upon any of the parties hereto shall extend to the heirs, executors, administrators and assigns of such party. In witness whereof, the said parties have hereunto set their hands, at Philadelphia, the (eighteenth) 18th day of September, in the year of our Lord one thousand eight hundred and fifty.

ELIZA KOHNE,
MORITZ WILLIAM FONTAIN,
By his attorney, WILHELM FONTAIN,
CONRAD TREMPER,
By his attorney, WILHELM FONTAIN.

Signed and delivered in the presence of us—
HENRY J. MORTON,
CHAS. D. MEIGS.

Endorsed:

Item.—It is understood that Mrs. Kohne has the right to select the South Carolina funds in the allotment of the residue, and Mr. Fontain the Kentucky, Tennessee and Ohio. The difference between twelve thousand dollars and the commission charged will be paid to Mr. Fontain, which will be on account of residue, and deducted from the shares of the principals. ELIZA KOHNE.

Philadelphia, September 18, 1850.

WILHELM FONTAIN,
WILLIAM RAVENEL,
JOHN C. LANG.

We, the undersigned, accept the trust created by the within instrument. WILLIAM RAVENEL,
JOHN C. LANG.

Philadelphia, Sept. 18, 1850.

Exhibit C.

Dr. *The Account No. 21, from 11 March, 1850, to 28 Nov., 1850,*

1850.			
Mar. 11..	The said accomptant charges herself with the following, viz: Balance of the account No. 20, rendered on April 30, and audited on 19th July, 1850.....		$452 54
	Interest and dividends collected from 11th March, 1850.		
May 8..	To six months' interest on $28,000 Tennessee 6 per cent. Loan.....		840 00
" "	To 6 months' interest on $3,000 Tennessee 5 per cent....		75 00
" 28..	" 12 " " $1,000 ditto.....		50 00
July 1..	" 6 " " $19,962 56 Ohio 6 per cent.....		598 87
" "	" 6 " " $22,300 00 City 5 p. ct....557 50 Less tax.....33 45		524 05
" "	" 6 " " $39,000 City 6 per ct....1,170 00 Less tax.....58 50		1,111 50
" "	" 6 " " $24,200 Gas 6 per ct.....726 00 Less tax.....36 30		689 70
" "	" 6 " " $77,000 Almshouse 5 p. ct. 1,925 00 Less tax.....115 50		1,809 50
" "	" 6 " " $40,500 County 6 p. ct...1,215 00 Less tax.....60 75		1,154 25
" "	" 6 " " $11,800 Chesapeake and Delaware Canal 6 per cent Loan.....		354 00
" "	" 6 " " $59,000 Ditto.....		1,770 00
" "	" 6 " " $29,500 Ditto.....		885 00
" "	" 6 " " $16,000 Tennessee 5 per ct.....		400 00
" "	" 6 " " $32,000 Kentucky 6 per ct.....		960 00
" "	" 6 " " $3,000 Tennessee 5 per ct.....		75 00
" "	" 3 " " $101,775 25 S. C. 6 p. c., due 1 April.....		1,526 63
" "	" 3 " " $3,964 39 S. C. 3 p. c., due 1 Ap'l.		29 73
" "	" 3 " " $101,775 25 do. 6 p. c., " 1 July.		1,526 63
" "	" 3 " " $3,964 39 ditto 3 p. c., " 1 "		29 73
" "	" 12 " " $6,000 mortgage of T. G. McPherson.....420 00		
	And interest on it from 20th July, 1849, to April, 1850, 273 days, at 7 per cent..... 22 00		442 00
	Carried over.....		$15,304 13

Of Eliza Kohne, sole surviving Executrix of Frederick Kohne. Cr.

1850.			
May 2..	The said accomptant requests allowance as follows:		
" 2..	By paid John M. Wallace for law charges in the suit of Eliza Kohne vs. John Bohlen, about her marriage settlement...		$40 84
" 2..	By paid at probate of wills, for passing the second No. account of Fontain's children.....	229 234	15 00
" 8..	By paid John C. Lang, for 12 months' services keeping the books and attending to the concerns of estate.....	248	400 00
June 13..	By paid to J. L. Petigru, of Charleston, for professional services to estate.....	236	750 00
July 3..	By paid to John Sargeant, for professional services to estate.....	238	750 00
" 3..	By paid Benjamin Gerhard for professional services to estate.....	239	750 00
" 9..	By paid at the orphans' court for copy of the account No. 20, to be laid before the auditors, and copy of the second account of the children of M. W. Fontain.....	241	30 00
" 9..	By paid at the recorder's office for eight certificates to be lodged at different offices to collect interest of Mrs. Eliza Kohne, having appointed John C. Lang to collect dividends.....	242	9 37
" 16..	By paid to William C. Lang, auditor's fees for auditing account No. 20.....	244	100 00
" 16..	By paid to John H. Campbell, for ditto.....	245	100 00
" 16..	By paid to Charles Thompson Jones, for ditto.....100 And advertisements..... 5	246	105 00
	Carried over.....		$3,050 21

Dr. *The Account No. 21, from 11th March, 1850, to 28 Nov., 1850,*

1850.	To amount brought over.....		$15,304 13
Aug. 3..	To 6 months' interest on $154,868 50.....		
	Pennsylvania 5 p. ct.....	$3,871 71	
	Less tax.....	193 59	
			3,678 12
" "	To 6.....$3,000 ditto 6 p. ct.....	90	
	Less tax.....	4 50	
			85 50
" "	To 6.....$50,000 ditto 4½ p. ct.....	1,125	
	Less tax.....	56 25	
			1,068 75
" "	To 6.....23,144 82 county 5 p. ct.....	578 61	
	Less tax.....	34 71	
			543 90
July 1..	To 6.....$151,000 Ohio 6 p. ct.....		4,530 00
" "	To 6.....$3,962 57 ditto 6 p. ct.....		118 88
" "	To 6.....$1,700 city 6 p. ct.....	51	
	Less tax.....	2 55	
			48 45
" "	To 6.....$482 93 almshouse 5 p. ct.....	12 07	
	Less tax.....	72	
			11 35
" "	To 6.....$2,252 96 county 6 p. ct.....	67 59	
	Less tax.....	3 38	
			64 21
" "	To 6.....$1,831 60 county 5 p. ct.....	45 79	
	Less tax.....	2 75	
			43 04
" "	To 6.....$938 72, county 5 p. ct.....	23 47	
	Less tax.....	1 41	
			22 06
" "	To 6.....$2,000 Kentucky 6 p. ct.....		60 00
Aug. 6..	To 6.....$4,497 81 Pennsylvania 5 p. ct.....	112 45	
	Less tax.....	5 61	
			106 84
" "	To 6.....$4,428 31 county 5 p. ct.....	110 71	
	Less tax.....	6 65	
			104 06
" "	To 6.....$1,709 18 county 5 p. ct.....	42 73	
	Less tax.....	2 57	
			40 16
" 28..	To amount of certificate of almshouse loan paid off.....		10,000 00
Sept. 20..	To 6 months' interest on $2,000 Tennessee 5 p. ct. loan due 10th Sept.....		50 00
	Carried over.....		$35,879 45

Of Eliza Kohne, sole surviving executrix of Frederick Kohne. Cr.

1850.	By amount brought over.....		$3,050 21
July 17..	By paid to John C. Long, for his attendance to auditor's meeting, auditing the 20th account, preparing the papers, and exhibiting the stock certificates to the auditors.....	$247	100 00
May 8..	By paid to John C. Lang, for 12 months' annuity, due 26th May.....	200	
	Less collateral inheritance tax, 2½ p. ct.....	5	249
			195 00
July 1..	By paid to John C. Lang, attorney of M. W. Fontain, 6 months' interest on $151,000, Ohio Loan.....4,530 00		
	Less tax, 2½ p. ct..... 113 25		250
			4,416 75
" "	By paid to Eliza Kohne, on account of her annuity:		
	April 1, at Charleston, by W. Ravenel.....1,500		283
	July 1, ditto. ditto.....1,500		do.
	July 3, at Philadelphia.....1,000		237
	July 11, ditto.....1,000		243
			5,000 00
" 6	By paid Simon Mudge, tax collector for Philadelphia county and Pennsylvania State tax for the present year, viz:		
	31 shares Santee Canal stock, $3,100. $17 05		9 30
	Mortgage at Charlestown, $5,000.... 27 50		15 00
	Moneys loaned, $196,000 .....1,078 00		588 00
	Domestic loans, $125,000..... 687 50		
	Silver plate, $1,496..... 8 22		4 50
	1,818 27		616 80
	Less 5 p. ct. on State tax.....		30 84
			585 96
	and.....	1,818 27	
			2,404 23
			240
May 26..	By paid to Wm. Hazard, in Charleston, 6 months' annuity, from 26 Nov., 1849, to 26 May, 1850, at $20 per month.....	120 00	
	Less collateral inheritance tax.....	3 00	117 00
			282
	Carried over.....		$15,283 19

Dr. *The account No. 21, from 11th March, 1850, to 28th Nov., 1850,*

1850.					
	To amount brought over.....				$35,879 45
Sept. 21..	To sales and disposal of $100,300 Chesapeake and Delaware Canal Loan:				
	$1,500 00 sold at 95¾ per ct.....			$1,436 25	
	710 00 " at 95⅝ per ct.....			678 94	
	2,000 00 " at 95½ per ct.....			1,910 00	
	1,000 00 " at 95¼ per ct.....			952 50	
	9,234 50 at 95 per ct.....			8,772 78	
				$13,750 47	
	Less brokerage ¼ per ct.....			36 11	
				$13,714 36	
	10,555 50 " 95 per ct.....	$10,027 73			
	Less brokerage ¼ per ct..	26 39			
				10,001 34	
	1,614 58 passed to Orph. Society at 96 per cent.....			1,550 00	
	35,625 00 passed to House of Refuge, at 96 per cent.....			34,200 00	
	8,510 42 sold at 95½.....	8,127 45			
	Less brokerage.....	21 28			
				8,106 17	
	10,416 67 passed to Eliza Kohne at 96 per cent.....			10,000 00	
	7,333 33 sold at 95½.....	7,033 33			
	Less brokerage.....	18 33		6,985 00	
	88,500 00			$84,566 87	
	11,800 00 Randall loan on hand at par.			11,800 00	
	$100,300 00				96,356 87
	To sales and disposal of $61,300 Philadelphia city 6 and 5 per cent. loan:				
	$1,000 6 p. ct. sold at 106⅛ p. ct.....	$1,065 00			
	100 5 p. ct. " at 89 p. ct.....	89 00			
	$1,100	$1,154 00			
	Less brokerage ¼ per ct.....	2 75			
				1,151 25	
	8,500 5 p. ct. sold at 92 per ct.....	$7,820 00			
	Less brokerage.....	21 25			
				7,798 75	
	8,000 6 per ct. old and payable redeemed by the city at par.....			8,000 00	
	4,500 passed to Infant School at 107 per ct....			4,815 00	
	4,500 " to Bishop's Fund at "			4,815 00	
	$26,600				
	Carried over.....			$26,580 00	$132,236 32

Of Eliza Kohne, sole surviving Executrix of Frederick Kohne. Cr.

1850.	By amount brought over,		$15,283 19
May 30,	By paid Wm. Ravenel for notary fees for a certificate of the So. Ca. loan, being deposited in the vaults of the Planters and Mechanics' Bank	$10 00	
	Attestation fee of Lewis F. Robertson, commissioner for Pennsylvania.....	3 00	
			13 00
Aug. 27,	By paid at the orphans' court for a copy of 20th account, and the report of the auditor's belonging thereto	No. 283 251	10 00
Sept. 20,	By paid to John C. Lang for his claim of $200 annuity, agreed with him to be paid off with.....	3,333 33	
	And paid him for arrears of said annuity from 26th May last to 20th Sept., is 3½ months at $200 per year.....	58 33	
			3,391 66
" 24,	By paid legacy to the Theological Seminary of the Protestant Episcopal Church.....$100,000	252	
	Less collateral inheritance tax..... 2,500	264	
			97,500 00
" "	By paid legacy to the Domestic and Foreign Missionary Society of the Episcopal Church in the United States.....10,000 00		
	Less collateral inheritance tax	250 00	
			9,750 00
" "	By paid legacy to the Society of the Protestant Episcopal Church for the Advancement of Christianity in South Carolina..... 5,000 00	265	
	Less collateral inheritance tax..... 125 00		
		266	4,875 00
" "	By paid legacy to the Ladies' Benevolent Society of Charleston, So. Ca..... 5,000 00		
	Less collateral inheritance tax..... 125 00		
		267	4,875 00
" "	By paid legacy to Shirras Dispensary in Charleston, So. Ca. 10,000 00		
	Less collateral inheritance tax 250 00		
		268	9,750 00
	Carried over.....		$145,447 75

Dr. *The account No. 21, from 11th March, 1850, to 28th Nov. 1850.*

1850. Sept. 21,	$26,000	Amount brought over	$26,580 00	$132,236 32
	4,500	passed to Female Association at 107 p. ct.	4,815 00	
	4,500	" " Advancement Society, " "	4,815 00	
	$35,600		36,210 00	
	12,000	6 p. ct. on hand at 105 p. ct.	12,600 00	
	13,700	5 p. ct. do. 88 p. ct.	12,056 00	
				60,866 00
	$61,300			
	24,200	Philadelphia 6 p. ct. gas loan on hand at 103 p. ct.		24,926 00
" "	To sales and disposal of $63,644 82, Philadelphia county, 6 and 5 p. ct. loan:			
	$1,478 15	5 p. ct. sold at 89 p. ct	$1,315 55	
		Less brokerage, ¼ p. ct.	3 70	
			1,311 85	
	21,666 67	passed to the institution of the Deaf and Dumb, at 90 p. ct.	19,500 00	
	5,500	6 p. ct. House of Refuge, at 101½	5,582 50	
	16,918 72	6 p. ct. ditto	17,172 50	
	9,605 91	6 p. ct. Dispensary	9,750 00	
	2,839 81	6 p. ct. Female Benevolent Society of St. James's Church, at 103 p. ct.	2,925 00	
	$58,009 26		56,241 85	
	5,635 56	6 p. ct. on hand, at 101½ p. ct.	5,720 10	
				61,961 95
	$63,644 82			
	To sales and disposal of $157,868 50 Pennsylvania 5 and 6 p. ct. loan:			
	$3,000	6 p. ct. passed to the House of Refuge at 101¼ p. ct.	3,045 00	
	97,500	5 p. ct. Theological Seminary, New York,	97,500 00	
	9,750	5 p. ct. Missionary Society	9,750 00	
	19,500	5 p. ct. Sunday-school Union	19,500 00	
	$129,750	Carried over	$129,795 00	$279,990 27

Of Eliza Kohne, sole surviving Executrix of Frederick Kohne. Cr.

1850.	By amount brought over.....			$145,447 85
Sept. 24..	By paid legacy to the Bishop's fund in Charleston, So. Ca.....	$5,000		
	Less collateral inheritance tax.....	125	269	4,875 00
" "	By paid legacy to the Female Episcopal Benevolent Society of St. James Church in Philadelphia.....	$3,000		
	Less collateral inheritance tax.....	75	270	2,925 00
" "	By paid legacy to Philadelphia Dispensary	$10,000		
	Less collateral inheritance tax.....	250	271	9,750 00
" "	By paid legacy to Female Association of Philadelphia.....	$,5000		
	Less collateral inheritance tax.....	125	272	4,875 00
" "	By paid legacy to the Orphans' House in Philadelphia.....	$60,000		
	Less collateral inheritance tax.....	1,500	273	58,500 00
" "	By paid legacy to the Infant School established in Philadelphia.....	$5,000		
	Less collateral inheritance tax.....	125	274	4,875 00
" "	By paid legacy to the Charleston Protestant Episcopal Domestic Missionary Society.....	$10,000		
	Less collateral inheritance tax.....	250	275	9,750 00
" "	By paid legacy to Mariners' Church in Charleston, So. Ca.....	$5,000		
	Less collateral inheritance tax.....	125	276	4,875 00
" "	By paid legacy to the House of Refuge in Pennsylvania.....	$100,000		
	Less collateral inheritance tax.....	2,500	277	97,500 00
" "	By paid legacy to Society of Protestant Episcopal Church for the advancement of Christianity in Pennsylvania.....	$5,000		
	Less collateral inheritance tax.....	125	278	4,875 00
" "	By paid legacy to Pennsylvania Institution for Deaf and Dumb.....	$20,000		
	Less collateral inheritance tax.....	500	279	19,500 00
	Carried over.....			$367,747 85

Dr. *The account No. 21, from March 11th, 1850, to 28th Nov., 1850,*

1850.	$129,750 00	Amount brought over.....	$129,795 00	$279,990 27
Sept. 21..	9,300 00	5 p. ct., sold at 97⅞ p. ct.	$8,637 38	
	200 00	5 p. ct., " " 92½ p. ct.	185 50	
	10,000 00	5 p. ct., " " 92¼ p. ct.	9,225 00	
	1,618 50	5 p. ct., " " 92 p. ct.	1,489 00	
			19,536 88	
		Less brokerage, ¼ p. ct.	52 78	19,536 10
	7,000 00	p. ct., sold at 92 p. ct...	6,440 00	
		Less brokerage.....	17 50	6,422 50
	157,868 50			155,701 60
	To disposal of $50,000 Pennsylvania 4½ p. ct. loan, passed to the House of Refuge, at 75 p. ct.....			37,500 00
	To disposal of $32,000 Kentucky 6 p. ct. loan:			
	$28,000 passed to Eliza Kohne at 106½ p. ct....		$29,820 00	
	4,000 on hand.....		4,260 00	
	32,000			34,080 00
	To 180 shares Schuylkill Navigation stock on hand, at $12			2,160 00
	On hand, $100,000 00	So. Ca. 6 p. ct. loan at 108 p. ct.....	$108,000 00	
	do. 1,775 25	So. Ca. 6 p. ct. par....	1,775 25	
	do. 3,964 39	" " 3 p. ct. at 62 p. ct.	2,457 92	
				112,233 17
	do.	372 shares Santee Canal stock, at $5.....		1,860 00
	do.	Mortgage of T. E. McPherson, in Charleston, par		6,000 00
	do.	$19,962 56 Ohio Canal loan, at 101½ p. ct.....		20,262 00
Oct. 10..	To sales of 20 shares Ridge Road Turnpike stock at $1½ per share.....			30 00
	To 3 months' interest on So. Ca. loan, viz:			
	On $100,000 00	So. Ca. 6 p. ct. loan.....	$1,500 00	
	" 1,775 25	do. do. 6 p. ct. loan.....	26 63	
	" 3,964 39	do. do. 3 p. ct. loan.....	29 73	1,556 36
		Carried over.....		$651,373 40

Of Eliza Kohne, sole surviving Executrix of Frederick Kohne. Cr.

1850.				
	By amount brought over			$367,747 85
Sept. 24..	By paid legacy to the Bishop's Fund of the Protestant Episcopal Church in Pennsylvania.	$5,000 00		
	Less collateral inheritance tax	125 00	280	4,875 00
	By paid legacy to General Episcopal Sunday-school Union	$20,000 00		
	Less collateral inheritance tax	500 00	281	19,500 00
	By paid legacy to Mrs. Eliza Kohne to dispose of by her last will and testament	$10,000 00		
	Less collateral inheritance tax	250 00	282	9,750 00
Sept. 28..	By paid Benjamin Gerhard bill of costs for printing and postage in Mrs. Kohne's claim for marriage settlement		253	141 65
Oct. 5...	By paid Eliza Kohne for her compromise of her claim for marriage settlement		282	50,000 00
" 14...	By renewed 1 year's Fire Insurance premium on a barn on the place in Turner's Lane, $800 at 1 per ct		181	8 00
	By paid to John C. Lang for notary's and recorders' fees at transferring stock		254	5 74
	By paid to Mrs. Eliza Kohne on account of her annuity up to 1st Oct. last	$1,500 00	256	
	To 26th Nov. next	1,000 00	263	2,500 00
	By paid to William Hazard 6 months' annuity from 26th May to 26th Nov., at $20	$120 00		
	Less collateral inheritance tax	3 00	282	117 00
" 15...	By paid to Thomas C. Bunting, register of wills, for collateral inheritance tax on M. W. Fontain's interest collected in July last, $4,530 a 2½ per ct		257	113 25
	Carried over			$454,758 49

Dr. *The account No. 21, from 11th March, 1850, to 28th Nov., 1850,*

1850.			
	To amount brought over.....		$651,373 40
Oct. 26...	To 6 months' interest on $1,000 Tennessee 5 per ct. Loan, due 10th Sept. last.....		25 00
" 26...	To on hand $28,000 Tennessee 6 per cent. Loan *a* 103 per cent.....	$28,840 00	
" 26...	To on hand $23,000 Tennessee 5 per cent. *a* 82½ per cent.....	18,975 00	
			47,815 00
" 26...	To sales of 10 shares Chesapeake and Delaware Canal stock *a* 84 3-9 per cent.....	847 50	
	Less brokerage on $2,000 *a* ¼ per cent.....	5 00	
			842 50
Sept. 24..	To sales and disposal of $67,000 Almshouse 5 per cent. loan, $67,000 passed to Orphans' Society *a* 85 per cent.....		56,950 00
Oct. 31...	To sales and disposal of silver plate, viz.: passed to Mrs. Eliza Kohne, 1,186 ounces, 15-10 penny-weight silver *a* $1 16 an ounce.....	1,376 63	
	To 4 butter knives *a* $3.....	12 00	
	To 3 dozen fruit knives *a* $3 each.....	108 00	
			1,496 63
Nov. 7..	To 6 months' interest on $28,000 Tennessee 6 per cent loan, due 1st Nov.....		840 00
	Carried over.....		$759,342 53

Of Eliza Kohne, sole surviving Executrix of Frederick Kohne. Cr.

1850.	By amount brought over.....		$454,758 49
Oct. 15..	By paid at the probate of wills for register's fees, orphan's court fees, &c., at rendering the trust account for M. W. Fontain.....	258	10 00
" "	By paid at the probate of wills for register's fees, orphan's court fees, &c., at rendering the trust account for Henrietta C. Fontain.....	259	10 00
" "	By transferred to John C. Lang and Charles Vezin, trustees appointed by the orphan's court for Henrietta Catharine Fontain in Rheda, the following stock held in trust for her and relinquished by Mrs. Eliza Kohne as surviving executrix of Mrs. Kohne's estate to take further care of it, viz.		
	$3,962 57 Ohio 6 p. ct. loan.....		
	482 93 Almshouse 5 p. ct. loan.....		
	2,000 00 Kentucky 6 p. ct. loan.....		
	1,700 00 Philadelphia city 6 p. ct. loan.....		
	4,497 81 Pennsylvania 5 p. ct. loan.....		
	2,252 92 county 6 p. ct. loan.....		
	8,907 78 county 5 p. ct. loan.....		
	23,804 05 as per receipt.....	No. 260	
" "	By paid to John C. Lang and Charles Vezin, as trustees for Henrietta Catharine Fontain, the balance in cash due said trust.....	260	2,615 13
" "	By transferred to John C. Lang and Charles Vezin, trustees appointed by the orphan's court for Moritz William Fontain, in Rheda, the following stocks held in trust for him, which however is relinquished by Mrs. Kohne, as surviving executrix to take care of it.....		
	Carried over.....		$457,393 62

Dr. *The account No. 21, from 11th March, 1850, to 28th Nov., 1850,*

1850.	Amount brought over.....	$759,342 53

Register's Office, Nov. 28, 1850.—I do swear that this account, as stated and settled, is just and true, and the collateral tax on the above has been paid, to the best of her knowledge and belief.

Sworn and subscribed before me the date above, she being unable to write her name, but made her mark.
THEO. T. DERINGER, *Dep. Reg.*

her
ELIZA ⋈ KOHNE.
mark.

		$759,342 53
1850. Nov. 29..	To balance.....	$248,707 10

Of Eliza Kohne, sole surviving Executrix of Frederick Kohne. Cr.

1850.	By amount brought over.....		$457,393 62
Oct. 15...	$151,000 Ohio Canal loan 6 per cent.....	261	
Nov. 8...	By paid to Wm. Hazard for his claim of $240 annuity agreed with him to be paid off with....	287	2,217 60
" 12..	By paid to Susan Engles for her claim of $200 annuity agreed with her to be paid off with....	285	2,600 00
" "	By charges of Wm. Ravenel, as agent in Charleston, as charged in his account current, viz:		
	Paid Lewis F. Robertson, as Pennsylvania commissioner for certifying the paying off of sundry legacies in Charleston.....	19 00	
	For certifying William Hazard's release.....	3 00	
	Discount on $29,570 transferred from Philadelphia to Charleston, ¼ per cent.....	73 92	
	Do. on 7,930 do. ¼ per cent.....	39 65	
	2,217,60 paid Wm. Hazard as capital of annuity, ½ per cent.....	11 09	
	Postage disbursed by him.....	6 40	
	6 months' allowance for his services at Charleston, from 26 May to 26 Nov., at $400 per annum..	200 00	353 06
" "	By paid to John C. Lang for postage disbursed at Philadelphia since March last.....	No. 283 286 00	15 43
" 28..	By paid collateral inheritance tax on $401,649 26 at 2½ per cent.....		10,041 23
" "	By paid register's fees, Orphans' court fees, certificates, &c.....		70 00
" "	By paid executors' commissions on	27,848 27	1,392 41
	Interest collected at 5 per cent.....		
	Paid further commissions.....	759,342 53	
	Less balance of 11th March last..... 452 54		
	And the above amount of interest at 5 per cent..... 27,848 27		
		28,300 81	
		$731,041 72	36,552 08
	Balance.....		248,707 10
			$759,342 53

Exhibit D.

Dr. *The final and distributive account of Eliza Kohne, as*

1850. Nov. 20..	The said accomptant charges herself with the balance of the 21st account rendered at the probate of wills this day, audited on the 19th of February, 1851, and confirmed by the orphan's court on the 7th March, 1851.....	$248,707 10
	N. B. The above balance of the above named account, viz., $248,707 10, consists not of money, but of the stocks, loans, cash, and securities specified in the opposite page.	
		$248,707 10

Surviving executrix of the estate of Frederick Kohne. Cr.

1850. Nov'r 28,	By this amount paid to John C. Lang & William Ravenel, as trustees for Eliza Kohne, being her one-half of the residuary personal estate of the testator, as per agreement dated the 18th day of September, 1850, between Mrs. Eliza Kohne, Moritz William Fontain, and Conrad Tremper, the same having been paid in the following stocks, securities, and plate, viz:		
	$100,000 00c. South Carolina 6 p.c. Loan at 108 p.c.		$108,000 00c.
	1,775 25 " " " " par		1,775 25
	3,964 39 " " 3 " " 62 p.c.		2,457 92
	Mortgage of T. E. McPherson		6,000 00
	372 shares Santee canal, at $5		1,860 00
		120,093 17	
1851. January 15,	By cash paid to William Ravenel	3,512 07	
"	" amount of silver plate	748 31	
			$124,353 55
1850. Nov'r 28,	By this amount paid to John C. Lang, and William Ravenel, as trustees for Moritz William Fontain and Conrad Tremper respectively, being the sum of their respective expected shares (one fourth each,) of the residuary personal estate of the testator, and as per agreement dated the 18th day of September, 1850, between Mrs. Eliza Kohne, Moritz William Fontain, and Conrad Tremper, the same having been paid in the following stocks and securities, viz:		
	By Chesapeake & Delaware canal loan $12,040 82c. at 98 p.c.		$11,800 00c.
	" Schuylkill Navigation stock, 180 shares " $12		2,160 00
	" Philadelphia city 6 p.c. loan, 12,000 00 " 5 p.c.		12,600 00
	" " " 5 " " 13,700 00 " 88 "		12,056 00
	" " " gas 6 p.c. loan, 24,200 00 " 3 "		24,926 00
	" " county 6 " " 5,635 56 " 1½ "		5,720 10
	" Ohio, 6 p.c. loan, 3 000 00 " ¼ "		3,016 45
	" Kentucky 6 p.c loan, 4,000 00 " 6⅛ "		4,260 00
	" Tennessee 6 p.c. loan, 28,000 00 " 3 "		8,840 00
	" " 5 " " 23,000 00 " 82½ "		18,975 00
		124,353 55	
	¼ of it for Moritz William Fontain, in Rheda		62,176 78
	¼ of it for Conrad Tremper in Limburg		62,176 77
			$248,707 10

Signed in our presence, this above account having been first read to Mrs. Eliza Kohne in our hearing, item by item.

B. T. NEUFVILLE,
CATHARINA WHITE.

Philadelphia, July 24, 1851.
(Signed)

ELIZA KOHNE.

United States of America, sixth circuit, South Carolina district.

On this fifth day of September, anno Domini one thousand eight hundred and fifty-three, before me, Robert C. Gilchrist, a commissioner appointed by the circuit court of the United States, in and for the said district, in the aforesaid circuit, under the laws of the United States, to take affidavits and acknowledgments of bail, &c., personally appeared William Ravenel, who, being duly sworn, did depose and say, that he has read the foregoing answer, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be on his information and belief, and as to those matters he believes it to be true.

WILLIAM RAVENEL.

Sworn to before me, on the day and year above written.

R. C. GILCHRIST,
United States Commissioner.

Replication.

And thereupon, Edward Hopper, esquire, solicitor for complainant, presents the replication of William Fontain, complainant, to the answer of William Ravenel, defendant; which replication being read and filed is in the words and of the tenor following, to wit:

This repliant, saving and reserving unto himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto, saith, that he will aver and prove his said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said defendant is uncertain, untrue and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsover, in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided traversed, or denied, is true; all which matters and things this repliant is, and will be, ready to aver and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he hath already prayed.

Agreement as to evidence.

Afterwards, to wit, on the nineteenth day of October, A. D. 1853, an agreement as to evidence is presented, which agreement, being read and filed, is in the words and of the tenor following, to wit:

It is agreed, that the book labelled "Cash Book," and "Accounts Rendered to the probate of wills of Frederick Kohne's estate," purporting to contain copies of the accounts filed in the office of the register of wills for the county of Philadelphia, by the executors and executrix of the last will and testament of the late Frederick Kohne, and identified by our initials as "Evidence, exhibit Z;" purporting also to contain copies of sundry reports on the said accounts by certain auditors appointed by the orphan's court for the county of Philadelphia, shall be read in evidence on any hearing of the above cause

by either party, reserving to either party the right to substitute exemplifications in lieu of any of the same.

It is also agreed to be admitted, that all the said accounts, except the final and distributive account, are duly confirmed by the orphan's court, as also the said auditor's reports; folios 96, 97, and 98 of the said book, not purporting to be a copy of any account filed, *is* excepted from this agreement.

It is also agreed, that either party may read in evidence, on any hearing of the above cause, an exemplification of any paper relating to the estate of the late Frederick Kohne, on file in the office of the register of wills of the county of Philadelphia, or in that of the orphan's court of the said county.

It is also agreed, that either party may read in evidence, on any hearing of the above cause, the exhibits attached to the answer filed in the above case or any of them.

It is also agreed, that either party may read in evidence a certain printed pamphlet purporting to be a copy of the pleadings in a certain suit in equity in Charleston district, South Carolina, wherein Francis Moore is plaintiff, and James Louis Petigru and William Ravenel, executors of Eliza Kohne, deceased, and I. W. Hayne, attorney general of South Carolina, are defendants, and identified by our initials as "Evidence, exhibit Y."

It is also agreed, that the defendant has paid collateral inheritance tax to the Commonwealth of Pennsylvania, and made divers disbursements, both as executor of the last will and testament of Mrs. Eliza Kohne, and trustees of the trust funds described in his answer, which he shall, if it should become desirable for him so to do, prove at any time before or after any hearing of the above cause.

It is also agreed, that should the opinion of the court involve the decision of any fact not admitted by the pleadings on both sides, that the investigation of the said fact shall be postponed, to allow both sides to exhibit any evidence which either may desire so to exhibit.

It is also agreed, that either party may read in evidence, on any hearing of the above cause, a certain printed pamphlet, purporting to be a copy of the last will and testament of Mrs. Eliza Kohne, and identified by our initials as "Evidence, exhibit X."

EDWARD HOPPER,
B. GERHARD.

Philadelphia, September 26, 1823.

The above stipulation, as to further proofs, is not to embrace the existence and objects of the parties using the plaintiff's name in this suit, which are hereby admitted to be according to the evidence already submitted.

EDWARD HOPPER,
For complainant.
B. GERHARD,
For defendant.

October 28th, 1853.

Evidence.—Exhibit X.

STATE OF SOUTH CAROLINA.

ORDINARY'S OFFICE,
CHARLESTON, S. C., 17*th March*, 1852.

In the name of God, Amen. I, Eliza Kohne, of Charleston, South Carolina, widow, make this my last will and testament.

First.—I direct all my just debts to be fully paid and satisfied.

Item.—Being authorized by the will of my late husband, Frederick Kohne, esq., to appoint the sum of ten thousand dollars, I do, in exercise of the said power, give the sum of five thousand dollars, parcel of the said ten thousand dollars, to my executors, hereinafter named, to be invested in such good public or private securities, yielding and paying an interest as they may deem fit, with power to change the investment from time to time, at their discretion, in trust to pay, from time to time, the interest of the said sum to my nephew, Benjamin S. Neufville, during the term of his natural life, and from and after his decease, in trust to divide the principal and the accruing interest among all his children then living, and the issue of such of them as may be dead; the issue of a deceased child taking such part only as their deceased parent would have taken if living. And I give the sum of two thousand dollars, other part of the said ten thousand dollars, to my said executors, in trust to invest the same in manner aforesaid, with power to change the investment as they may deem advisable, and to pay the clear net income and interest thereof, from time to time, into the hands of my cousin, Miss Frances Moore, during her natural life, and after her decease, in trust for such person or persons, and to and for such use and uses as she by her last will and testament, or any writing in her lifetime, may limit and appoint.

And I give the sum of two thousand dollars, other part of the said ten thousand dollars, to my said executors, in trust to invest the same forthwith, or as soon as practicable after my decease, in stock of the State of South Carolina, and apply the interest or dividends towards the education and maintenance of Frederick Neufville, son of my unfortunate nephew, Isaac Neufville, until he shall attain the age of twenty-one years; and then to transfer and assign the same to and for his own proper use and behoof forever; and in case he should die under the age of twenty-one years, without leaving issue, to the children of the said Benjamin S. Neufville.

And I give the sum of one thousand dollars, residue of the said ten thousand dollars, to my friends, Isabel Wilson and Mary Wilson, of Philadelphia.

And being empowered by my husband's will to dispose of his houses in Broad street and Short street, in Charleston, to religious uses, in exercise of the said power, I give and devise all that house and lot on Broad street where Mr. Kohne resided, and in which I have resided since his decease; also, the house and lot on Broad street, in the oc-

cupation of Mr. Charles Dawson; and also the lot on Short street, as described in Mr. Kohne's will, to and for the proper use and behoof of the Protestant Episcopal Society for the advancement of christianity in South Carolina.

Item.—To Mrs. Margaret Bowen, relict of the late Bishop of Charleston, I give the sum of one thousand dollars in the loan of the Northern Liberties and Spring Garden Water Works, Pennsylvania.

Item.—To my cousin, Miss Frances Moore, I give my gold repeating watch, and the book-case in my Philadelphia house, and all the books it contains; also, the furniture of my drawing-room in Charleston, being the southwest parlor on the first floor.

Item.—To my cousin, Mrs. Anna Eliza Hume, of Charleston, I give all my oil paintings, except the portraits of my uncle and brothers; also, all my valuable set of diamonds, which are in a small wooden box, placed in a trunk containing my papers.

Item.—To my nephew, Benjamin S. Neufville, I give the portraits of my uncle and brothers; also, one dozen large spoons, one dozen dessert spoons, and one dozen small tea-spoons, all marked F. E. K. Also, one large soup-spoon, marked J. N. E.; all of silver.

Item.—To my cousin, Emma Moore, I give all my white and gold china in my Broad Street house.

Item.—To my grand-niece, Julia Yancey Neufville, I give all the furniture of my Broad Street house, not herein otherwise disposed of.

Item.—To my friends, Miss Mary White and Miss Catharine White, of Philadelphia, I give the sum of one thousand dollars in the Deaf and Dumb stock; part of my loan to the Pennsylvania Institution for the Deaf and Dumb.

Item.—To my cousin, Mary Sherman, formerly Mary Flagg, eldest daughter of Henry Collins Flagg, esq., of New Haven, I give two round open-worked silver baskets marked F. E. K.

Item.—To my cousin, Dr. Edward Mitchell, of Edisto, I give my largest-book case in my Charleston house, with all the books which it contains.

Item.—To my friend, John C. Lang, of Philadelphia, five hundred dollars.

Item.—To the South Carolina society, of which my grandfather was one of the founders, two hundred dollars.

Item.—To my friend, John C. Lang, of Philadelphia, esq., the sum of two thousand dollars in the Alms House loan, part of my loan to "the guardians for the relief and employ of the poor of the city of Philadelphia, the district of Southwark, and the townships of the Northern Liberties and Penn, in trust, to be applied by him for the benefit of my faithful servants, Susan Inglis and Edward James, of Philadelphia."

Item.—To the said John C. Lang, and his heirs, I give a certain brick messuage or dwelling-house, and lot of ground, on the east side of Twelfth street, seventeen feet northward from Washington street, Philadelphia, containing in front on Twelfth street fourteen feet, and

in depth sixty-three feet, being the premises conveyed to me by Daniel Thorn and wife, snbject to a ground rent of sixty dollars, which ground rent I have since paid off and extinguished, in trust for the sole and separate use of the said Susan Inglis, and her heirs and assigns, not subject to the debts or control of any husband whom she may marry: Provided, nevertheless, that it shall and may be lawful for Edward James, aforesaid, brother of the said Susan Inglis, to occupy for his own personal use one room in the said house, without paying rent therefor, as long as he continues unmarried, but no longer. And in case of his marriage then, but not otherwise, I give the sum of five hundred dollars to the said John C. Lang, in trust for the said Edward James; which five hundred dollars are to remain in Mr. Lang's hands for that purpose.

Item.—I give to the said John C. Lang eight shares in the stock of the Planter's and Mechanic's Bank, standing in my name, in trust for the said Edward James.

Item.—I give to the said Susan Inglis all my furniture in my house in Turner's Lane, in the county of Philadelphia; also, all the kitchen furniture in my house in Chesnut street.

Item.—To Phillis Gordon, my servant of Philadelphia, I give all my household furniture in the northeast room on the first floor of my Chesnut street house, and in the room above it.

Item.—I give to the said Susan Inglis and Edward James all my common table and sheeting linen, and all my common china and glassware belonging to my Chesnut street house.

Item.—I give my house and lot on Anson street, Charleston, to my nephew, Benjamin S. Neufville, during his life, and from and after his decease to his children, Julia Yancey Neufville, Benjamin Neufville, and Henry Neufville, and their heirs; but if either of them should die in the lifetime of the said Benjamin S. Neufville, without leaving issue, then after the death of the said Benjamin S. Neufville, to the survivors or survivor of them, the said Julia Yancey Neufville, Benjamin Neufville, and Henry Neufville, forever. And in case the said Benjamin S. Neufville should become insolvent, and his estate be assigned under any bankrupt or insolvent law, or the said house and lot should be extended, or taken in execution by his creditors, or his creditors should go about to make his estate therein liable to his debts, then it is my will that his estate in the premises shall cease, and the remainder of his children vest in possession, subject to the same limitation,—in case of any of them dying in his lifetime without leaving issue as is above expressed, to the survivors and survivor of them.

And whereas I have a claim on the estate of my husband, under my marriage settlement, which claim is now in suit, and it is my intention in case of the recovery of that claim to dispose of the money that may thereby accrue to me or my estate, as hereinafter mentioned; therefore in case the said claim shall be established, and in that case only, I give and bequeath to be paid out of the aforesaid fund, and not otherwise, that is to say:

To my nephew, Benjamin S. Neufville, ten thousand dollars.

To the Misses Hazlehurst, (Juliana, Lois, Mary and Harriet,) of Philadelphia, four thousand dollars.

To my friends, the Misses White, (Mary and Catharine,) of Philadelphia, two thousand dollars.

To John C. Lang, esq., two thousand dollars.

To my cousin, Frances Moore, three thousand dollars for her own use.

To my said cousin, Frances Moore, for purposes which I will explain to her, six thousand five hundred dollars.

To Mrs. Elizabeth Wilson, of Philadelphia, four thousand dollars.

To Miss Margaret Vaux, of Philadelphia, one thousand dollars.

To my friend James L. Petigru, esq., of Charleston, five thousand dollars.

To my friend, John Bohlen, of Philadelphia, one thousand dollars.

To my young friend, Mrs. Fanny Hanckel, two thousand dollars.

To my friend, William Ravenel, esq., of Charleston, one thousand dollars.

To my cousin, Dr. Edward Mitchell, two thousand dollars.

To my friend, Mrs. Margaret Bowen, one thousand dollars.

To my neighbor, Mrs. Eliza Brown, one thousand dollars.

To Edward James, two thousand dollars.

To Phillis Gordon, one hundred dollars.

To the vestry and wardens of St. Michael's church, in Charleston, ten thousand dollars.

To the Widows' house in Philadelphia, called the Widows' and Single Women's Society, two thousand dollars.

To the Domestic and Foreign Missionary Society of the Protestant Episcopal church, in the United States of America, incorporated by the State of New York in the year 1846, ten thousand dollars, to be applied to the objects of the society in the following manner, that is to say, three-fourths of the said legacy to the promotion of domestic missions, and the residue to the support of foreign missions.

To Bishop Chase, for the purpose of completing Jubilee College, if so much be needed; otherwise, to the promotion of piety within his diocese, three thousand dollars.

To St. James's church, Seventh street, Philadelphia, by whatever name it may be known in law, three thousand dollars.

To Grace church, Sullivan's Island, five hundred dollars.

To the college of Charleston, five hundred dollars.

To the support of divine service and religious instruction in the church which is proposed to be built under the protection or patronage of the South Carolina Convention of the Episcopal church, which it is understood is to be called Calvary church, or by whatever name it may be called, five hundred dollars, to be paid to the bishop of the diocese, towards the promotion of the preaching of the gospel to the black and colored people of Charleston.

To the Floating chapel, Philadelphia, three hundred dollars.

in depth sixty-three feet, being the premises conveyed to me by Daniel Thorn and wife, snbject to a ground rent of sixty dollars, which ground rent I have since paid off and extinguished, in trust for the sole and separate use of the said Susan Inglis, and her heirs and assigns, not subject to the debts or control of any husband whom she may marry: Provided, nevertheless, that it shall and may be lawful for Edward James, aforesaid, brother of the said Susan Inglis, to occupy for his own personal use one room in the said house, without paying rent therefor, as long as he continues unmarried, but no longer. And in case of his marriage then, but not otherwise, I give the sum of five hundred dollars to the said John C. Lang, in trust for the said Edward James; which five hundred dollars are to remain in Mr. Lang's hands for that purpose.

Item.—I give to the said John C. Lang eight shares in the stock of the Planter's and Mechanic's Bank, standing in my name, in trust for the said Edward James.

Item.—I give to the said Susan Inglis all my furniture in my house in Turner's Lane, in the county of Philadelphia; also, all the kitchen furniture in my house in Chesnut street.

Item.—To Phillis Gordon, my servant of Philadelphia, I give all my household furniture in the northeast room on the first floor of my Chesnut street house, and in the room above it.

Item.—I give to the said Susan Inglis and Edward James all my common table and sheeting linen, and all my common china and glassware belonging to my Chesnut street house.

Item.—I give my house and lot on Anson street, Charleston, to my nephew, Benjamin S. Neufville, during his life, and from and after his decease to his children, Julia Yancey Neufville, Benjamin Neufville, and Henry Neufville, and their heirs; but if either of them should die in the lifetime of the said Benjamin S. Neufville, without leaving issue, then after the death of the said Benjamin S. Neufville, to the survivors or survivor of them, the said Julia Yancey Neufville, Benjamin Neufville, and Henry Neufville, forever. And in case the said Benjamin S. Neufville should become insolvent, and his estate be assigned under any bankrupt or insolvent law, or the said house and lot should be extended, or taken in execution by his creditors, or his creditors should go about to make his estate therein liable to his debts, then it is my will that his estate in the premises shall cease, and the remainder of his children vest in possession, subject to the same limitation,—in case of any of them dying in his lifetime without leaving issue as is above expressed, to the survivors and survivor of them.

And whereas I have a claim on the estate of my husband, under my marriage settlement, which claim is now in suit, and it is my intention in case of the recovery of that claim to dispose of the money that may thereby accrue to me or my estate, as hereinafter mentioned; therefore in case the said claim shall be established, and in that case only, I give and bequeath to be paid out of the aforesaid fund, and not otherwise, that is to say:

To my nephew, Benjamin S. Neufville, ten thousand dollars.

To the Misses Hazlehurst, (Juliana, Lois, Mary and Harriet,) of Philadelphia, four thousand dollars.

To my friends, the Misses White, (Mary and Catharine,) of Philadelphia, two thousand dollars.

To John C. Lang, esq., two thousand dollars.

To my cousin, Frances Moore, three thousand dollars for her own use.

To my said cousin, Frances Moore, for purposes which I will explain to her, six thousand five hundred dollars.

To Mrs. Elizabeth Wilson, of Philadelphia, four thousand dollars.

To Miss Margaret Vaux, of Philadelphia, one thousand dollars.

To my friend James L. Petigru, esq., of Charleston, five thousand dollars.

To my friend, John Bohlen, of Philadelphia, one thousand dollars.

To my young friend, Mrs. Fanny Hanckel, two thousand dollars.

To my friend, William Ravenel, esq., of Charleston, one thousand dollars.

To my cousin, Dr. Edward Mitchell, two thousand dollars.

To my friend, Mrs. Margaret Bowen, one thousand dollars.

To my neighbor, Mrs. Eliza Brown, one thousand dollars.

To Edward James, two thousand dollars.

To Phillis Gordon, one hundred dollars.

To the vestry and wardens of St. Michael's church, in Charleston, ten thousand dollars.

To the Widows' house in Philadelphia, called the Widows' and Single Women's Society, two thousand dollars.

To the Domestic and Foreign Missionary Society of the Protestant Episcopal church, in the United States of America, incorporated by the State of New York in the year 1846, ten thousand dollars, to be applied to the objects of the society in the following manner, that is to say, three-fourths of the said legacy to the promotion of domestic missions, and the residue to the support of foreign missions.

To Bishop Chase, for the purpose of completing Jubilee College, if so much be needed; otherwise, to the promotion of piety within his diocese, three thousand dollars.

To St. James's church, Seventh street, Philadelphia, by whatever name it may be known in law, three thousand dollars.

To Grace church, Sullivan's Island, five hundred dollars.

To the college of Charleston, five hundred dollars.

To the support of divine service and religious instruction in the church which is proposed to be built under the protection or patronage of the South Carolina Convention of the Episcopal church, which it is understood is to be called Calvary church, or by whatever name it may be called, five hundred dollars, to be paid to the bishop of the diocese, towards the promotion of the preaching of the gospel to the black and colored people of Charleston.

To the Floating chapel, Philadelphia, three hundred dollars.

To the trustees of the Hopkins fund, Charleston, three hundred dollars.

To the Moral Reform Society of Philadelphia, five hundred dollars.

To the African Orphan shelter, Philadelphia, five hundred dollars.

Should there be deficiency of the fund, after deducting all expenses, to answer the aforesaid twenty-nine legacies, they are to abate in proportion. And if there should be a surplus of the fund, to be recovered from the estate of my husband as aforesaid, after payment of said last mentioned legacies and expenses, I give the residue of all that may be recovered, as aforesaid, to my nephew, Benjamin S. Neufville and his children.

Item.—To my friend James L. Petigru, esq., of Charleston, I give all my carriages and horses in Charleston, and half of my stock of wines in Philadelphia, and the engraving of Bishop White's portrait in my drawing-room in Charleston.

To my friend Dr. Charles D. Meigs, of Philadelphia, I give the other half of my stock of wines in Philadelphia, and all my German damask table linen in my Chesnut street house.

To my friend, William Ravenel, esq., of Charleston, I give all my German damask table linen, marked German damask table linen, in my house in Broad street.

To the Misses Hazlehurst above mentioned, I also leave all the furniture of my southeast parlor on the first floor, and in the southeast chamber on the second floor of my Chestnut Street house.

Item.—To Julia Yancey Neufville all the rest of my plate not otherwise disposed of.

I annex this condition to the several legacies contained in this will or any codicil which I may make thereto, that is to say, that if any legatee dispute my will, or claim against any legacy therein written, or undertake by any legal proceedings to have any legacy contained in my will, or any codicil thereto, declared void, I revoke every gift to such legatee, and give the legacy or legacies of such legatee to the Society for the advancement of christianity in South Carolina, for the use of the Bishop's permanent fund. And if any legacy or provision made by this will should fail, as being contrary to law, I give every thing which may be judicially held not to pass to the object of my bounty, as herein declared, to the same Society for the advancement of christianity in South Carolina, for the Bishop's permanent fund.

All the rest, residue and remainder of my estate, whatsoever and wheresoever, I give and bequeath to my cousin, Miss Frances Moore.

Lastly.—I nominate, constitute and appoint my friends, William Ravenel and John C. Lang, of Philadelphia, and James L. Petigru, executors of this my last will and testament, hereby revoking all other wills by me at any time made, and declaring this to be and contain my last will and testament. In witness whereof to this will, written on six sheets, I have subscribed my name to each sheet, and hereto set my hand and seal, the fourteenth day of April, in the year of our Lord one thousand eight hundred and forty-eight.

ELIZA KOHNE, [SEAL.]

Signed, sealed, published, and declared by the said Eliza Kohne, the testatrix, as and for her last will and testament, in the presence of us, who, in her presence and at her request, have hereunto subscribed our names, ("house" being erased and "lot" interlined, on the last line of first sheet, and the last two lines on the fifth sheet, beginning with the word "lastly" and ending with "and" being erased.)

HENRY D. LESESNE,
HENRY H. TIMROD,
E. B. BAKER.

A Codicil

To my will, just executed, and bearing the same date with this paper:

To Mrs. Frances Moore, widow, I give my two English cut glass pitchers and all my English cut glass, consisting of dishes and decanters, in my Broad Street house.

Instead of the rest and residue of my furniture in the Broad Street house, given by my will to my great niece, Julia Yancey Neufville, I now give to my said niece the furniture in my southeast parlor, first floor, and southwest, southeast and northwest chambers, second floor of my Broad Street house. All the rest of the furniture of my Broad Street house I give to my cousin Frances Moore.

I give the two largest looking-glasses on the first floor in my Chesnut Street house to my cousin, Anne Eliza Hume.

I give to Mrs. Margaret Vaux all the furniture in the drawing-room of my Chesnut Street house, not otherwise disposed of; also all my English cut glass in my Chesnut Street house.

I give to Mrs. Joseph L. Roberts my dinner set of English china in my Chestnut Street house.

I give to Mrs. Elizabeth Wilson, of Philadelphia, all the furniture in the northwest and southwest chambers on the second floor in my Chesnut Street house.

I give to Miss Mary White and Miss Catharine White all my white and gold china, and all my white painted tables and chairs in my Chesnut Street house.

To my friend, Mrs. Mary Maxwell, of Philadelphia, widow, I give my yellow carriage in Philadelphia.

To my friend, John Bohlen, of Philadelphia, I give my garden-chair in my Chesnut Street house.

To Mrs. Sarah Pogson Smith I give a certificate for one thousand dollars in the Alms House loan of Philadelphia, being a security for so much money.

And I hereby declare this to be a codicil to my said will, and direct the same to be taken as part thereof, ratifying and confirming the said will in everything except where the same is hereby altered. In witness whereof, I, the said Eliza Kohne, have to this codicil set my hand the fourteenth day of April, in the year of our Lord one thousand eight hundred and forty-eight.

ELIZA KOHNE.

Signed, published and declared by the said Eliza Kohne, as and for a codicil to be added to and considered as part of her last will and testament, in the presence of us, who, in her presence and at her request, have hereunto subscribed our names.

HENRY D. LESESNE,
HENRY H. TIMROD,
E. B. BAKER.

A further and second codicil to the last will and testament of Eliza Kohne, of Charleston, widow, dated the fourteenth day of April, in the year of our Lord one thousand eight hundred and forty-eight.

In case my estate, with the aid of my marriage settlement, should leave a surplus after paying all the legacies already given by my will and codicil, then I give the following additional legacies. That is to say—

To my friends, the Misses Hazlehurst, of Philadelphia, mentioned in my will, two thousand dollars.

Item.—To the Misses White (Mary and Catharine,) two thousand dollars.

Item.—To Mrs. Bowen, one thousand dollars.

Item.—To my cousin, Dr. Edward Mitchell, two thousand dollars.

Item.—To the Reverend Edward Neufville, three thousand dollars.

Item.—To the Ladies' Benevolent Society, in trust for the Hopkins' fund, and in aid thereof, two thousand dollars.

Item.—To the support of the Bishop of South Carolina, in aid of the Bishop's fund, to be paid to the trustees of the said fund, in aid of the objects thereof, nine thousand dollars.

Item.—To the Trustees of the Roper Hospital, in aid of the charity founded by Mr. Roper, seven thousand dollars. And, whereas, by my will, the legacies given upon the faith of my marriage settlement are directed to abate in case of a deficiency, I hereby declare my will, that in case of a deficiency to pay the whole of those legacies, then such of them as are under one thousand dollars shall be paid in full, and the others abate among themselves. And I desire this codicil to be taken as part of my last will and testament, and, in all other respects, confirm the same. In witness whereof, I have hereunto set my hand, by subscribing my name, this first day of April, in the year of our Lord one thousand eight hundred and fifty. Before concluding I supply an omission, and give, in addition to the foregoing legacies, and on the same terms, to my cousin, Miss Frances Moore, three thousand dollars.

Signed, published, and declared by the testatrix,

ELIZA KOHNE,

as and for a codicil to her last will and testament, in the presence of us, who, in her presence, and in the presence of each other, and at her request, have hereto subscribed our names.

HENRY D. LESESNE,
WILLIAM S. DAVIDSON,
R. C. GILCHRIST.

Will, and first and second codicils thereto, proved before
M. T. MENDENHALL, esq., *O. C. D.*

17th March, 1852.

At the same time, qualified Hon. James L. Petigru and Mr. William Ravenel, executors thereof.

A further codicil to the last will of Eliza Kohne, of Charleston, widow.

I do hereby revoke the appointment of John C. Lang as one of my executors, and desire this to be taken as a part of my will, which I do in all other respects confirm.

Dated at Philadelphia, this sixteenth day of September, in the year of our Lord one thousand eight hundred and fifty.

Signed, published, and declared by testatrix,
ELIZA KOHNE,

as a codicil to her will in our presence, who, in her presence, and at her request, have hereto subscribed our names.

CH. D. MEIGS, M. D.,
J. HAMILTON, of S. C.,
MORTON P. HENRY.

ORDINARY'S OFFICE,
CHARLESTON DISTRICT, *17th March*, 1852.

I certify the foregoing nineteen pages to contain true copies of the last will and testament, and first and second codicils thereto of Mrs. Eliza Kohne, deceased, on file for record in said office; and also a true copy of the third codicil to said will, filed for probate in said office.

M. T. MENDENHALL, *O. C. D.*

Evidence—Exhibit Y.

CHARLESTON DISTRICT.

FRANCES MOORE,
vs.
JAMES LOUIS PETIGRU, William Ravenel, executors of Eliza Kohne, deceased, and I. W. Hayne, Attorney General of S. C. } In Euiqty.

Bill to account and for relief.

WILLIAM WHALEY,
Complainant's solicitor.

THE STATE OF SOUTH CAROLINA,
Charleston district.

In equity.

Humbly complaining, your oratrix, Frances Moore, shows to your honors:

That the late Frederick Kohne, by his last will and testament, bearing date the 28th day of April, in the year 1829, after giving an annuity of $10,000 per annum to his wife, and giving various legacies immediately and other legacies to a large amount to charities payable after her decease, proceeded as follows:

"And for as much as there will be a surplus income of my estate beyond what will be necessary to pay my wife's annuity, and the other annuities, I do therefore direct my said executors to invest the said surplus income, and all accumulation of interest arising from that source yearly, for and during all the term of the natural life of my said wife, in the purchase of such stocks or securities of the United States, or the State of Pennsylvania, or of any other State or States of the United States, or of the city of Philadelphia, bearing an interest, as they in their discretion may see fit. And from and immediately after the decease of my said wife, then all the rest, residue, and remainder of all my estate, including the fund which shall have arisen from the said surplus income aforesaid, after payment of the legacies hereinbefore directed to be paid after the decease of my said wife, and after providing for the payment of the annuities hereinbefore given, of those annuitants who may then still be living, I authorize and empower my executors, or the survivor of them, after the decease of my said wife, to dispose of the same for the use of such charitable institutions in Pennsylvania and South Carolina as they or he may deem most beneficial to mankind, and so that part of the colored population in each of the said States of Pennsylvania and South Carolina shall partake of the benefit thereof. And I do hereby further authorize and empower them, or the survivors or survivor of them, after my wife's decease, for the better and more easy disposing of my said residuary estate as aforesaid, to sell, and to make and execute good and sufficient deeds and conveyances of my real estate, not hereinbefore specifically disposed of, to the purchaser or purchasers thereof, his, her, or their heirs and assigns in fee simple." As by a certified copy of the said will in the hands of your oratrix's solicitor, and ready to be produced to this honorable court whenever required, reference being thereunto had, will more fully appear. Of which will the testator appointed his wife, Eliza Kohne, and John Bohlen and Robert Vaux, of Philadelphia, and Robert Maxwell, described as late of Charleston, executors; and about the 26th day of May, in the year of our Lord 1829, departed this life, leaving the said will in full force. And the said Eliza Kohne, and all the executors therein named, proved the said will in Philadelphia; but the same was not proved in South Carolina till many years afterwards, when it was proved before the ordinary of Charleston district by the said Eliza Kohne. That the testator had been many years domiciled in Charleston, and retired from business with an ample fortune about the year 1816; after which time, as indeed for some time before, he divided the year between Charleston and Philadelphia, in each of which places he maintained a furnished house of his own, with servants, and all the arrangements suitable to a gentleman's es-

tablishment. That in the year 1826 his health failed in Philadelphia, and he did not return to Charleston, but spent the last two years of his life in that place, where his will was made, in which he is described as Frederick Kohne, of Philadelphia; but your oratrix believes that he had never done any act to put off the character of a citizen of South Carolina, and that in fact he regarded himself as a citizen of South Carolina and Pennsylvania. That a great part of his fortune continued till the time of his death to be invested in South Carolina, and no intention had been avowed by him of dissolving his connections with this State. That Mrs. Eliza Kohne, his widow, after his decease, divided the year between Philadelphia and Charleston, spending nearly an equal time in each—and always claimed and asserted her domicil of origin, which was Charleston, and considered it her home.

Your oratrix further shows to your honors, that on the 11th day of March, in the year 1850, John Bohlen, the last surviving executor of Frederick Kohne, died in the lifetime of Eliza Kohne; whereby the gift of the residue of the testator's estate to such charitable institutions in Pennsylvania and South Carolina, as his executors, or the survivor of them, might deem most beneficial to mankind, was defeated. That the said Eliza Kohne being advised that by the failure of the gift of the residue, the testator died intestate as to the same; and that it was distributable between her and the next of kin, and that the right to an immediate distribution thereof was subject only to certain charges, of which her annuity was the chief, elected to merge her annuity in the residue, and to settle the estate.

That by the law of Pennsylvania, as well as of this State, the distribution in the case of intestacy is between the widow and the next of kin; that the next of kin of the testator, at the time of his death, were his nephew, Moritz William Fontain, of Rheda, and his niece,

Fontain, wife of Conrad Tremper, who died leaving her husband, Conrad Tremper, of Linburg, in the kingdom of Prussia, surviving her; and by the law of Pennsylvania, as well as of this State, the personal estate of which the testator died intestate was distributable, as your oratrix is advised, in moieties—one half to the said Eliza Kohne, and the other half to the next of kin; but in the real estate, the widow, by the law of Pennsylvania, would take only an estate for life.

That with the consent of the said Moritz William Fontain and Conrad Tremper, acting by their duly constituted attorney, she paid off the legacies, and satisfied the annuities, given by the will; and divided the surplus of the personal estate between her and the next of kin.

But it was agreed, that the shares of Moritz William Fontain and Conrad Tremper should be assigned to John C. Lang and William Ravenel, as a security to the estate of Frederick Kohne, until the propriety of paying over the surplus should be finally passed upon by the proper courts.

That in pursuance of such understanding and agreement, all the legacies of Mr. Kohne were paid, and the residue divided into four equal parts; one of which parts was assigned to John C. Lang and

William Ravenel, in trust for the said Moritz William Fontain; and another fourth to the same, in trust for Conrad Tremper; and the remaining two-fourths, comprising all the South Carolina funds, were retained by the said Eliza Kohne as her own property, under an agreement, however, with the attorney of Moritz William Fontain and Conrad Tremper, to assign the said two-fourths to the same trustees, as a similar security to the estate of the testator. But no such transfer was in fact made, as it was deemed unnecessary.

That the said Eliza Kohne, by her last will and testament, bearing date the 14th day of April, which was in the year 1848, gave to your oratrix all the rest and residue of her estate, and departed this life on the 16th day of March, in the year 1852, leaving the said will in full force; and James Louis Petigru and William Ravenel, the executors therein named, proved the same in the court of ordinary for Charleston district, and possessed themselves of assets to a great amount, sufficient to pay all her legacies, and to leave a large surplus for your oratrix as residuary legatee.

Your oratrix further shows to your honors, that the said executors have paid off the debts of the testatrix, and paid the legacies as far as the estate of testatrix, independent of her interest in the surplus of her husband's estate, will go; and would pay and satisfy the legacies in full, and pay over the surplus to your oratrix, if they were not restrained, as they say, by the agreement to which reference is before made, by which the said Eliza Kohne agreed to convey or assign her part of the said surplus to John C. Lang and William Ravenel, till her right had been passed upon by the proper courts.

Your oratrix further shows to your honors, that the only question against the right of the said Eliza Kohne to the surplus retained by her as aforesaid, arises from the supposed prerogative of the States of Pennsylvania and South Carolina over property ineffectually disposed of to charity.

That the doubt is, whether the power which the kings and sovereigns of England exercise by sign manual over property intended to be given in charity, is an existing prerogative in this country. Your oratrix insists, that with the death of Mr. Bohlen, the gift to such charitable institutions in Pennsylvania and South Carolina as he might deem most beneficial to mankind, failed as a legacy for the want of a legatee; and as a trust, for want of certainty. That if the prerogative of the sovereign should prevail, the State of South Carolina is the sovereign to whom, in this case, it would belong to dispose of the funds in South Carolina. And that unless this honorable court should decide in favor of the right of the State of South Carolina to apply one-half of the undisposed surplus of the testator's estate to charity generally, the said James Louis Petigru and William Ravenel are bound to apply those funds to the payment of the legacies, and to pay over the surplus to your oratrix as the residuary legatee. That the said John C. Lang has departed this life; and that neither Moritz William Fontain nor Conrad Tremper, nor their attorney, has, or claims to

have, any interest in the question between your oratrix and the executors of Mrs. Kohne. And your oratrix had well hoped that the said James Louis Petigru and William Ravenel would pay and distribute the funds in their hands without waiting for a judgment of any court, inasmuch as the prerogative of the crown in the disposal of estates by sign manual has never been admitted, or claimed, by any magistrate of South Carolina, nor the magistrate of any republic in America. Yet so it is, may it please your honors, that the said James Louis Petigru and William Ravenel insist that the engagement of the testatrix prevents them from acting without the sanction of a court of competent jurisdiction, and that the jurisdiction in this case is in the courts of Pennsylvania. Whereas your oratrix insists that over legacies to charity which have lapsed or failed for uncertainty or illegality, there is no prerogative in Pennsylvania more than in South Carolina; and that such authority is disavowed in South Carolina; and that the jurisdiction over the legacies of Mrs. Kohne is in the courts of this State, because the fund is here, and because her domicil was in this place. Yet the said James Louis Petigru and William Ravenel refuse to make further distribution without the sanction of a judgment by a court of competent jurisdiction; that your oratrix had hoped that the attorney general would disclaim, on the part of the State of South Carolina, any interest; but she has ascertained that it is the opinion of that officer, that he should not do any act of his own accord to alter the relations of the parties.

To the end, therefore, that Isaac W. Hayne, esq., attorney general of South Carolina, and the said James Louis Petigru and William Ravenel, may full, true, and perfect answer make to the premises, and that in as full and ample manner as if the same were here again repeated and interrogated; and that the said James Louis Petigru and William Ravenel may account for the sums which have come to their hands, as executors of the said Eliza Kohne, who was surviving executrix of Frederick Kohne; and after the payment of the legacies, the surplus may be paid over to your oratrix; and that she may receive such other and further relief as the nature of this case may require, and to your honors may seem meet; may it please your honors to grant to your oratrix a writ of subpœna ad respondendum to be directed to the said Isaac W. Hayne, James L. Petigru, and William Ravenel, commanding them at a certain day, and under a certain pain therein to be inserted, personally to be and appear before this honorable court, then and there to answer to the premises; and further to stand to and abide by such order and decree, as to your honors may seem agreeable to equity and good conscience.

WILLIAM WHALEY, *Compl'ts Sol.*

THE STATE OF SOUTH CAROLINA,
Charleston district.

In equity.

The joint and several answer of James Louis Petigru and William Ravenel, executors of the last will and testament of Eliza Kohne, late of Charleston, widow, to the bill of complaint of Miss Frances Moore.

These defendants, now and at all times reserving to themselves all and all manner of objections and just exceptions to the said bill of complaint, for answer thereunto, or to so much thereof as they are advised is material or necessary for them to answer unto, answering say: That they admit that the late Frederick Kohne was domiciled for many years in Charleston, (and in fact say that he was married there in the year 1807;) that he retired from business with a large fortune, about the year 1816; that afterwards, and probably before that time, he resided part of the year in Philadelphia, and part in Charleston, in which cities he had handsome residences, which were maintained and kept up all his life in the style of a man of fortune; that about the year 1826, his health and strength decayed, and he spent his last days in Philadelphia, where he made his will, and died on the 26th May, 1829, having by his will directed the income of his estate to accumulate during the lifetime of his wife, subject to certain annuities, and gave certain legacies to be paid after her decease, and directed provision then to be made for the surviving annuitants, and certain legacies to be then paid, and authorized his executors after the decease of his wife to dispose of the surplus or residue of his estate to such charitable institutions in Pennsylvania and South Carolina as they might deem most beneficial to mankind, so that part of the colored population in each of the said States of Pennsylvania and South Carolina should partake of the benefit thereof, as mentioned in complainant's bill. That the testator was possessed of a large estate, and a considerable part thereof was invested in South Carolina. That the will was proved by the executrix and executors in Philadelphia, and that all the executors died in the lifetime of the executrix; and that she was advised by counsel learned in the law, both in Pennsylvania and South Carolina, that the decease of all the executors in her lifetime, without attempting to exercise the authority given to them over the surplus, had rendered that part of the will inoperative, and that such surplus would be disposed of in the same way as if in the will no mention had been made thereof at all.

That under this advice, the said Eliza Kohne asked the consent of the next of kin to anticipate the payment of the legacies which were payable at her decease, with a view to distribute the surplus. These defendants admit that by the laws of Pennsylvania, as well as those of South Carolina, the personal estate of intestates without children is divided in moieties between the widow and the next of kin; and the next of kin of Mr. Kohne, at the time of his decease, were his nephew Moritz William Fontain, of Rheda, in Prussia, and his niece

Fontain, who married one Conrad Tremper, of Linburg, in Prussia, and has since died, leaving her husband surviving and no children. And these defendants further answering say, that other matters were in discussion between Mr. Kohne and the said next of kin, or their agent. That at the time of the decease of Mr. Bohlen there was pending, in the court of chancery of Pennsylvania, a cause between Mrs. Kohne and the said John Bohlen, executor of Frederick Kohne, in which the right of Mrs. Kohne to the provision made for her by her marriage settlement was drawn in question; which said suit abated by the death of the defendant.

That Mr. John Lang of Philadelphia, who was the confidential clerk of Mr. John Bohlen, the executor and the agent of the estate, having the possession and control more or less of all the securities belonging to the estate, after the decease of Mr. Bohlen, embraced the interest of the next of kin, and opposed the claims of Mrs. Kohne under the marriage settlement, and strongly objected to her plan of winding up the estate. That from the great age of Mrs. Kohne, delay was likely to be fatal to the hope of accomplishing in her lifetime the good which she desired to effect, and therefore she was disposed to avoid litigation, and consented to abate from her legal rights for the sake of conciliation. That after much discussion, an agreement was made and entered into between herself and the next of kin; by which the amount of her claim under the marriage settlement was fixed provisionally, and arrangements made for the payment of legacies, and distribution of the surplus; in which agreement, at the instance of Mr. Lang, a clause was inserted for transferring the several shares of the parties in the surplus of the estate to him and this defendant, William Ravenel, until the validity of the acts in question should be established. As in and by the said agreement, a copy of which is herewith filed, marked A, reference being thereunto had, will more fully appear.

These defendants further answering say, that after the said agreement, Mrs. Kohne paid off all the testator's legacies, and purchased up the annuities, and assigned one-fourth of the surplus to William Fontain, and one-fourth to Conrad Tremper, and retained all the Carolina securities, and some others amounting to one moiety of the surplus for her own use. That she also proved the will of the testator in South Carolina, and filed a final administration account in the orphan's court of Philadelphia, which was submitted to auditors, and confirmed about the 7th March, 1851.

These defendants admit that the said Eliza Kohne did transfer the shares of Conrad Tremper and William Fontain to John C. Lang and William Ravenel, and that she retained in her own hands, without change, that part of the surplus which was allotted to her for her share. That the greater part consisted of South Carolina funds, and of securities actually in South Carolina. And they admit that she was advised that it was unnecessary to make any change in this respect; and that the parties, Moritz William Fontain and Conrad Tremper, with whom said agreement was made, had no interest in that stipulation nor any

cause to complain of the situation of the fund. But in fact an account of the same since the division has been kept in the name of John C. Lang and William Ravenel, in trust for Eliza Kohne, until Mr. Lang's death, and since that time in the name of William Ravenel, survivor.

These defendants admit that the said Eliza Kohne adhered to her domicil of origin, and continued a resident of Charleston, and made it her home till the time of her decease. That by her last will and testament, bearing date the 14th day of April, which was in the year 1848, she gave to the complainant all the rest and residue of her estate, and departed this life on the 16th day of March, 1852, leaving the said will and codicils thereto in full force. And that these defendants, the executors therein named, proved the same, before the Ordinary of Charleston district. And that assets have come to their hands as executors of the said Eliza Kohne, who was surviving executrix of Frederick Kohne, sufficient to pay all her debts, and leave a large surplus for the complainant's residuary legacy. And this defendant, William Ravenel, answering for himself, says, that on the day of 1852, he proved the will of Mrs. Kohne, in the city of Philadelphia, and was required to enter into security in the sum of 12,000 dollars, for the faithful administration of the same. That security was required of him as a citizen of another State; and the amount of the security was regulated by his return of the assets in Pennsylvania. That by the laws of Pennsylvania, the executor's office is not transmissible to his executors, and certain charitable institutions in Philadelphia have insisted on taking out administration de bonis non of Frederick Kohne, for the purpose of substituting some person in the place of the executor, as a trustee for charitable institutions, in place of the trustee appointed by the testator. That William Fontain, in behalf of the next of kin, insisted on his right to the administration which was granted to him; and this defendant has had notice that a bill has been or will be filed in his name, in the circuit court of the United States, in Pennsylvania, against this defendant, to compel him to account in Philadelphia for all the assets in South Carolina, and to transfer to the administrator de bonis non of Frederick Kohne the surplus of the estate of said Frederick Kohne, for the use of charitable institutions in Pennsylvania and South Carolina; and to make the estate of Mrs. Kohne liable for the payment of the legacies in her lifetime as being paid without authority; and the auditor general of Pennsylvania has demanded five per cent. on the whole estate of Mrs. Kohne in South Carolina, as an inheritance tax to the State of Pennsylvania, and on this defendant's refusal, a citation has been actually issued and served upon him. And this defendant is advised that he cannot anticipate the judgment of the United States court, (on the question of jurisdiction or on the question of lapse,) without making himself responsible for the consequences of an error of judgment. And he submits whether he ought to be held accountable in this honorable court while there is a claim to make him account for the same thing in another State.

These defendants admit that the only question against the right of

the said Eliza Kohne to the surplus retained by her arises from the supposed prerogative of the States of Pennsylvania and South Carolina over property ineffectually disposed of to charity. They admit that the said John C. Lang has departed this life, and that neither Moritz William Fontain nor Conrad Tremper, nor their attorney, has or claims to have any interest in the moiety of the surplus which was retained by Mrs. Kohne for her own use. And these defendants submit to your honors, whether the prerogative which is claimed for the sovereign to dispose of estates ineffectually bequeathed to charity has existence in the United States; and if such prerogative exists, whether it is recognised in South Carolina; and if such prerogative exists, whether it has any extra-territorial authority. And whether the admission of such prerogative would imply any right in the State of South Carolina, in and over that part of the surplus undisposed of by the will of the testator, which at the time of his decease, or at the time of the decease of his wife, was actually within the said State.

And these defendants are ready to account and submit to do and perform all such acts and deeds as they may be required to do, under the sanction and protection of this honorable court, and pray to be protected by the authority of this honorable court, in the execution of the trusts of the will of the said Eliza Kohne and Frederick Kohne.

All which matters and things these defendants are ready to aver, maintain, and prove as this honorable court may direct and award, and pray to be hence dismissed with their reasonable costs and charges in this behalf wrongfully sustained.

HENRY D. LESESNE,
Defendants' Solicitor.

A.

Memorandum of an agreement between Eliza Kohne, of the city of Charleston and the city of Philadelphia, and Moritz William Fontain and Conrad Tremper, of the kingdom of Prussia, the last two parties acting by their attorney in fact, William Fontain. Whereas, the said parties hereto are the parties entitled to the residuary estate of the late Frederick Kohne, which will remain after paying the claims against his estate, and the legacies bequeathed to the legatees specifically named in his last will and testament, and the said Eliza Kohne is the executrix of his said will: It is agreed by and between them to settle the estate of the said testator as follows:—First, that the said Eliza Kohne, as executrix as aforesaid, shall forthwith pay all charges against the said estate, for settling the same or otherwise, and then that she shall pay to herself the sum of fifty thousand dollars, in satisfaction of her claim under her marriage settlement, against the estate of the said testator, but ten thousand dollars thereof shall be forthwith deposited in the hands of John C. Lang of the city of Philadelphia, and William Ravenel of the city of Charleston, to be invested and retained by them until it shall be ascertained that under the agreement between the parties hereto, dated the second day of August, A. D. 1850, no diminu-

tion of the said sum of fifty thousand dollars is to be made in favor of the said Moritz William Fontain and Conrad Tremper; the interest on the said sum of ten thousand dollars shall, in the mean time be regularly invested and accumulated, and the said sum of ten thousand dollars, with the said accumulated interest, shall be held in trust to pay the said Moritz William Fontain and Conrad Tremper, in case they should become entitled to, under the said last mentioned agreement, any diminution of the said sum of fifty thousand dollars in their favor, (under the said last mentioned agreement;) but if it shall be ascertained that the said Moritz William Fontain and Conrad Tremper are entitled to no such diminution, or if any, not to the extent of the said ten thousand dollars and the interest accumulated thereon, then in the first case the whole, and in the second case the residue of the said ten thousand dollars and its accumulated interest shall be paid and transferred to the said Eliza Kohne. Second, that the said Eliza Kohne, as executrix as aforesaid, shall forthwith pay the legatees specifically named in the said will, and whose legacies are directed to be paid after the death of the said Eliza Kohne, including the sum of ten thousand dollars to herself, of which she has the right of disposition after her death. Third, that the said Eliza Kohne, as executrix as aforesaid, shall forthwith buy off, if possible, all the annuities bequeathed by the said will, including that to Susan Inglis, and excluding that to herself; and if they or any of them cannot be bought, then she shall make such other provision for their payment as she shall judge best. Fourth, that after making a reasonable reservation for future charges against the estate, she shall deduct and pay herself all commissions due her, the said Eliza Kohne, as executrix as aforesaid, including those to accrue to her on settling the said estate under this agreement, and then the whole remaining personal estate she shall forthwith distribute in the following manner: She shall transfer and distribute the said residue of the said personal estate, two-fourth parts thereof to herself, one-fourth part thereof to William Fontain, attorney for Moritz William Fontain, and the remaining fourth part thereof to William Fontain, attorney for Conrad Tremper. The shares of the said Eliza Kohne, Moritz William Fontain, and Conrad Tremper, are to be deposited in the hands of John C. Lang of the city of Philadelphia, and William Ravenel of the city of Charleston, to be invested by them, and to remain with them as a security for the estate of the said Frederick Kohne, until the propriety of the said last mentioned payments shall have been finally passed upon by the proper courts, after which, if the said payments shall be affirmed as rightfully made, the respective amounts of the said payments shall be absolutely transferred to the said Eliza Kohne, Moritz William Fontain and Conrad Tremper, respectively; but if such final determination of the said courts shall be against the propriety of the said payments, then the respective amounts of the said payments shall be held in trust for the party or parties entitled to the said residuary personal estate of the said Frederick Kohne, which will remain after paying the legacies to the legatees specifically named in the said will. The inter-

est on the respective amounts of the said payments to the said Eliza Kohne, Moritz William Fontain, and Conrad Tremper, shall be paid to them respectively, by the said John C. Lang and William Ravenel, until such final determination as aforesaid, but the said Moritz William Fontain and Conrad Tremper shall each give refunding receipts for all such interest payments as shall be made to them respectively, stipulating for the return of the same in case the respective capitals producing the said interest shall be finally adjudged as aforesaid not to belong to them respectively. Fifth, the real estate of the said Frederick Kohne, so far as the same is not specifically devised by his will, the said parties hereto are advised by their counsel will, after the death of the said Eliza Kohne, be inherited by the said Moritz William Fontain, but at his request, the said Eliza Kohne, for herself and her heirs, disclaims all interest in the same, other than her life estate therein under the said will, and protesting that she has no other interest therein, covenants to convey to the said Moritz William Fontain all and every other interest which she may have in the said real estate. Sixth, the said Eliza Kohne will, as against the said Moritz William Fontain and Conrad Tremper, not claim her annuity of ten thousand dollars under the said will, from the time of the receipt by her of her share of the said distribution of the said residuary personal estate, nor as against the said Moritz William Fontain and Conrad Tremper will she claim more than twelve thousand dollars commissions for settling the said estate of the said Frederick Kohne, under this agreement. Seventh, the said William Ravenel has been named as a trustee, by the said Eliza Kohne, and the said John C. Lang by the said Moritz William Fontain and Conrad Tremper, and in the event of the death, resignation, or dismissal of either of the said trustees, the party or parties on whose behalf he was named shall name a successor, and the continuing trustee shall make or unite in making any proper transfer or conveyance to join such nominated party as a trustee in the aforesaid trusts. Eighth, this agreement is only to be operative as between the parties hereto, and is not to be given in evidence or pleaded by any other party or parties, nor as for, against, or between any other party or parties. Ninth, that all rights and liabilities herein given to or imposed upon any of the parties hereto, shall extend to the heirs, executors, administrators, and assigns of such party.

In witness whereof, the said parties have hereunto set their hands, at Philadelphia, the (eighteenth) 18th day of September, in the year of our Lord one thousand eight hundred and fifty.

Signed and delivered in the presence of us,

HENRY J. MORTON,
CHAS. D. MEIGS.

ELIZA KOHNE,
MORITZ WILHELM FONTAIN,
By his attorney, WILHELM FONTAIN,
CONRAD TREMPER,
By his attorney, WILHELM FONTAIN.

Endorsed:

Item.—It is understood that Mrs. Kohne has the right to select the South Carolina funds, in the allotment of the residue, and Mr. Fontain the Kentucky, Tennessee, and Ohio.

The difference between twelve thousand dollars, and the commission charged, will be paid to Mr. Fontain, which will be on account of residue, and deducted from the shares of the principals.

ELIZA KOHNE,

Philadelphia, September 18, 1850.

WILHELM FONTAIN,
WILLIAM RAVENEL,
JOHN C. LANG.

We, the undersigned, accept the trust created by the within instrument.

Philadelphia, Sep. 18, 1850.

WILLIAM RAVENEL,
JOHN C. LANG.

In Equity.

THE STATE OF SOUTH CAROLINA,
Charleston district.

The answer of I. W. Hayne, attorney general of South Carolina, to the bill of complaint of Miss Frances Moore.

This defendant saving and reserving to himself all and all manner of advantage and benefit of exception, now and at all times hereafter, to the manifold errors and uncertainties in the complainant's said bill contained, answering says:

That he is a stranger to the matters and things in the complainant's bill contained, and is not of his own knowledge able to admit or deny the several statements therein contained. And this defendant hopes that the rights and interest of the state of South Carolina, as far as they are involved in the matters in issue, may be carefully and fully maintained; and prays to be hence dismissed with his reasonable costs and charges in this behalf wrongfully sustained.

I. W. HAYNE, *Att'y Gen.*

Afterwards, to wit, on the same day, the inventory and appraisement of the personal estate of the late Frederick Kohne, deceased, is presented; which inventory and appraisement being read and filed, is in the words and figures and of the tenor following, to wit:

Inventory and appraisement of the personal estate, late of Frederick Kohne, of the city of Philadelphia, esquire, deceased, taken on the 20th day of June, A. D. 1829, to wit:

Plate.

	Oz.	dwt.		
1 water pot	38	2		
2 sugar dishes	66	15		
2 cream jugs	26	15		
1 sett castors	58	00		
2 baskets	98	15		
2 doz. dessert spoons	52	15		
4 do. tea spoons	53	10		
2 do. table forks	80	10		
2 do. dessert forks	51	18		
2 soup ladles	21	10	806 oz. 13 dwt., *a* $1 50,	$1,209 97
6 pair salt spoons	6	10		
1 mustard spoon	0	13		
2 sugar ladles	5	15		
3 doz. table spoons	120	00		
6 bottle stands	56	12		
8 salt stands	31	17		
2 pair sugar tongs	6	6		
1 fish knife	7	0		
2 doz. tea spoons	24	0		
4 butter knives, at $3				$12 00
3 doz. fruit knives, at $3 apiece				108 00
English.—24 table spoons, plain	44	5		
12 dessert spoons	10	13		
17 tea spoons	8	11		
2 gravy spoons	7	0		
2 soup ladles	11	11		
4 cream ladles	6	3	156 oz. 7 dwt., *a* $1 20	$187 62
2 castor stands	25	0		
8 salt spoons	3	7		
1 fish knife	4	12		
1 basket	28	0		
Snuffers and trays	7	5		
1 sugar dish and cream pot,	40 oz.	12 dwt., at $1 50		$60 90
1 coffee pot,	57 "	" 1 25		71 25

	Oz.	dwt.		
1 doz. table spoons, 1 doz. dessert spoons, ½ doz. tea spoons -	41	00		
8 salt spoons, 3 pair sugar tongs, and 1 marrow spoon -	9	3		
1 fish knife, 3 butter knives, and 3 table, and one spoon -	9	0	126 oz. 3 dwt., *a* $1 16,	$146 33
2 soup spoons and 2 gravy spoons -	17	17		
1 sugar bowl, 11 5				
1 cream jug, 7 3	34	8		
1 tea pot, 16 0				
1 pair candlesticks -	12	0		
2 shewers - - -	2	15		
				$1,796 07

Appraised by us the subscribers:

THOS. FLETCHER,
CHAS. FLETCHER.

Sworn June 30, 1829.

JNO. GEYER.

Note.—The testator bequeathed all his furniture, horses, carriages, and all articles and things purchased and provided by him for family use, (excepting his plate,) to his wife, Eliza Kohne, and directed that no inventory or appraisement of the same should be taken or made of them. They have been accordingly delivered to the widow without any such inventory or appraisement. The plate was bequeathed to his wife during life, and has been likewise delivered to her.

Ohio canal stock.

Certificate	No.	466,	New	York,	dated	30th	January,	1828,	for $9,000
"	"	443,	"	"		12th	"	"	" 4,200
"	"	442,	"	"		"	"	"	" 10,000
"	"	441,	"	"		"	"	"	" 10,000
"	"	440,	"	"		"	"	"	" 6,800
"	"	439,	"	"		"	"	"	" 10,000
"	"	699,	"	"		19th	May,	"	" 5,000
"	"	698,	"	"		"	"	"	" 5,000
"	"	697,	"	"		"	"	"	" 5,000
"	"	701,	"	"		"	"	"	" 8,000
"	"	700,	"	"		"	"	"	" 7,000
"	"	1163,	"	"		21st	January,	1829,	" 10,000
"	"	1164,	"	"		"	"	"	" 10,000
"	"	1165,	"	"		"	"	"	" 10,000
"	"	1166,	"	"		"	"	"	" 10,000
"	"	1167,	"	"		"	"	"	" 10,000
"	"	1168,	"	"		24th	"	"	" 10,000
"	"	1169,	"	"		21st	"	"	" 10,000
									$151,000

Certificate No. 30, Chesapeak and Delaware Canal loan, dated 16th April, 1827, for	$50,000
Certificate No. 17, Schuylkill Navigation Company loan, dated 25th October, 1825,	9,000
Certificate No. 1,684, United States, 3 p. c. stock, dated 14th April, 1826, for	2,858 09

United States Bank stock, to wit:

Certificate	No.	14,024,	dated	24th	July,	1820,	for 50	shares,	$5,000
"	"	6,744,	"	12th	June,	1818,	for 10	shares,	1,000
"	"	26,233,	"	6th	June,	1825,	for 230	shares,	23,000
"	"	23,990,	"	8th	June,	1824,	for 137	shares,	13,700
"	"	2,755,	"	12th	Nov.,	1817,	for 50	shares,	5,000
"	"	6,740,	"	12th	June,	1818,	for 20	shares,	2,000
"	"	6,742,	"	"	"	"	for 15	shares,	1,500
"	"	6,743,	"	"	"	"	for 15	shares,	1,500
"	"	13,843,	"	5th	July,	1820,	for 3	shares,	300
									53,000

20 shares Ridge Road Turnpike Company stock, No. 434 to No. 454 inclusive, dated 12th March, 1812, a $50	$1,000	
10 shares Chesapeake and Delaware Canal Company, a $200	2,000	
		3,000
Money in the hands of Prime, Ward, King, and Co., as per their account current of the 6th of June, 1829,		31,452 03
Due by Mr. Francis Moore on a note of hand,		300 00
		$300,610 12

Philadelphia, June 30th, 1829.

JOHN BOHLEN,
ROBERTS VAUX.

Sworn June 30, 1829.

JNO. GEYER.

CITY AND COUNTY OF PHILADELPHIA, *ss.*

I certify the foregoing writing to be a true copy of the inventory and appraisement of the personal estate of Frederick Kohne, deceased, as the same remains filed in the register's office.

[Seal of the register's office, city and county of Philadelphia.]

Witness my hand and seal of office, this fifth day of October, A. D. 1853. WM. BOWERS, *Register*.

Afterwards, to wit, on the same day, an additional inventory is presented, which, being read and filed, is in the words and of the tenor following, to wit:

Additional inventory to the inventory rendered to the probate of wills, on the 20th day of June, 1829, of the personal estate of the late Frederick Kohne, of Philadelphia, deceased. Bond and mortgages in Charleston, S. C.

Milward Pogson (for which T. Dawson is responsible)	$10,000 00
R. W. Roper	1,500 00

Benjamin Allston - - - - -	$15,000 00	
T. S. Allston, C. C. P. Allston and W. Allston - - - - -	11,000 00	
D. E. Huger - - - - -	6,000 00	
Thomas Lowndes - - - - -	14,000 00	
James Hamilton, junior - - - -	4,000 00	
G. H. Manigault and N. Hayward - -	24,000 00	
George Chisholm - - - - -	26,416 34	
J. E. McPerron - - - - -	5,000 00	
John Parker, junior - - - -	10,000 00	
		$126,916 34

Stocks in Charleston, S. C.

South Carolina 6 p. c. stock - - - - - - -	130,000 00
South Carolina 3 p. c. stock - - - - - -	3,964 39
31 shares Santee Canal stock, original cost $600, present value nominal.	

The bonds and mortgages preceding, and also the certificates of the preceding stocks, are in the hands of Mr. James Thomas, of Charleston, S. C., where they were placed by the testator in his lifetime; and all the said bonds and mortgages and stock being within a foreign jurisdiction, the executors do not acknowledge themselves further responsible for them than as they may hereafter come to their hands, nor admit their liability for the collateral inheritance tax.

The object of this additional inventory is, to present with that already filed a view of all the testator's personal assets, wherever situate, as far as the same are now known to the executors.

JOHN BOHLEN,
ROBERTS VAUX.

Philadelphia, July 7th, 1831.

Left at the office, July 7th, 1831.

J. B. SEWALL,
Deputy Register.

CITY AND COUNTY OF PHILADELPHIA, *ss.*

I certify the foregoing writing to be a true copy of the additional inventory of the estate of Frederick Kohne, deceased, as the same remains filed in the register's office. Witness my hand and seal of office, this fifth day of October, A. D. 1853.

[Seal of the register's office, city and county of Philadelphia.]

WM. BOWERS, *Register.*

Decree.

Whereupon, afterwards, to wit, on the twenty-eighth day of October, A. D. 1853, this cause came on to be heard, at this session, on bill, answer, and evidence, and was argued by counsel learned in the law,

on both sides; and thereupon, upon consideration thereof, it was ordered, adjudged, and decreed as follows, to wit:

That the complainant's bill do stand dismissed out of this court, with costs, to be paid by the parties on whose behalf the same is filed.

Appeal.

And now, 30th November, 1853, on motion of Edward Hopper, esquire, leave is granted to enter an appeal to the Supreme Court of the United States, from the decree of this court, dismissing the bill of complaint of said complainant.

UNITED STATES OF AMERICA,
Eastern district of Pennsylvania, sct.

I certify the foregoing to be a true and faithful copy of the record and proceedings of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, in a certain suit in equity therein lately depending, between William Fontain, complainant, and William Ravenel, respondent.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of said circuit court, at Philadelphia, this third [SEAL.] day of December, A. D. 1853, and in the seventy-eighth year of the independence of the United States.

GEORGE PLITT,
Clerk circuit court.